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From the Frontlines to the Bottom Line: Medical Marijuana, the War on Drugs, and the Drug Policy Reform Movement

Author:

[Heddleston, Thomas Reed](#)

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Advisor:

[Reinarman, Craig](#)

Committee:

[Szasz, Andrew](#), [Epstein, Barbara L](#)

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SANTA CRUZ

**FROM THE FRONTLINES TO THE BOTTOM LINE: MEDICAL
MARIJUANA THE WAR ON DRUGS AND THE DRUG POLICY REFORM
MOVEMENT**

A dissertation submitted in partial satisfaction
Of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in

SOCIOLOGY

by

Thomas R. Heddleston

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The Dissertation of Thomas R. Heddleston
is approved:

Professor Craig Reinerman, Chair

Professor Andrew Szasz

Professor Barbara Epstein

Tyrus Miller
Vice Provost and Dean of Graduate Studies

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ABSTRACT

Thomas R. Heddleston

From The Frontlines to the Bottom Line: Medical Marijuana the War On Drugs and the Drug Policy Reform Movement

The medical marijuana movement began in the San Francisco Bay Area in the early 1990s in a climate of official repression. This movement represents the most successful branch of the forty-year old drug policy reform movement. Using oral histories, participant observation, and archival research this dissertation explores the genesis, growth, and transformation of the medical marijuana movement in California from 1990 until 2012. I theorize the longevity of prohibitionist ideology over the course of the twentieth century in chapter one. Chapter two narrates the social history of the drug policy reform movement and its three branches; marijuana policy reform, harm reduction, and anti-prohibitionism. The three branches are characterized by diversification, as new organizations form to pursue different areas of drug policy reform, and competition for funding, but they maintain cooperative relationships with each other. My ethnographic fieldwork uncovered three types of physical sites, (hemp rallies, conferences, and the Internet), which play important roles in recruiting, networking, and facilitating cooperation on campaigns. The context and political opportunity structures of the San Francisco Bay Area were crucial factors in the genesis of the medical marijuana movement, but that activism and civil disobedience were also necessary for the movement to form. Activists and organizations in the metro areas of San Francisco, Los Angeles and San Diego were able to shape different political opportunity structures that affected the regulation of medical

cannabis dispensaries in each specific locale. Medical marijuana began as a social movement and then transformed into an industry by shifting from the field of social movement action to the field of commercial action. New types of participants, a perceived change in political opportunity at the national level, and a more prominent public profile typify this shift. The shift also contributed to a refocused federal campaign to dismantle the system of medical cannabis provision that activists and entrepreneurs built over the twenty-one year history of the medical cannabis movement in California.

DEDICATION

I would like to thank my dissertation committee members Andrew Szasz and Barbara Epstein for their suggestions and helpful comments in writing this dissertation and my field statements that preceded it.

I would especially like to thank my dissertation chair and advisor Craig Reinerman. Craig has been an excellent mentor to me during my graduate studies. His expansive knowledge of the field of drug policy and drug studies has been an invaluable asset to me during my research project. I am very grateful for all of the time and expertise he has invested in me during my time in Santa Cruz.

INTRODUCTION

The four decades old drug policy reform movement is comprised of individuals and organizations working to liberalize drug policies and move away from the system of “punitive prohibition” that typifies current drug policy in the U.S. According to Blain (2002: 3) this “campaign is a ‘movement’ in the sociological sense that it employs the conventional repertoire of contention (e.g. public protests; rallies; meetings; conferences; mobilizing structures and SMOs; efforts to create political alignments with political parties).” Drug policy reform organizations have trained their efforts on a wide variety of policy arenas, including, marijuana decriminalization, needle exchange programs (and other forms of “harm reduction”), medical marijuana, and decreasing the penalties for drug offenses. Over the years, the number of organizations has increased and the specific concerns of various organizations have fragmented. The movement is made up of advocacy and membership-based organizations (Walker, McCarthy & Baumgartner 2011), a shifting mass base, and wealthy benefactors. Although the movement is ideologically powerful and well funded, successful campaigns in the political arena are few and far between. The drug policy reform movement has encountered opposition from both parent groups opposed to drug policy liberalization (or counter social movement organizations), and, uniquely, resistance from government agencies such as the Office of National Drug Control Policy and the Drug Enforcement Administration. The various organizations in the movement focus on a variety of campaigns of local, state,

and national scope, yet the two most successful forms of drug policy reform have been medical marijuana and needle exchange programs

Medical marijuana has been the most successful form of drug policy reform. In early 2012, sixteen states and the District of Columbia, have laws that allow qualified people to use marijuana (cannabis) for medicinal purposes. Individual medical marijuana dispensaries, storefront locations that sell cannabis to qualified patients, operate openly in California, Colorado, Montana and Washington. Clandestine medical cannabis dispensaries have been opened (and sometimes closed) in several other states including Nevada, Michigan and Oregon. Along with needle exchanges and safe injection facilities, medical cannabis dispensaries represent specific *modalities* of drug policy reform. Modalities are different from changes in drug laws and sentencing policies because they have a physical location and present an active challenge to prohibitionist policies. The drug policy reform movement uses a combination of legal change to alter drug laws it finds unfavorable and direct action to put new policy modalities in place. While legislative change occurs comprehensively through ballot initiatives and the adoption of new legislation, activists, organizations and providers institute change on the ground slowly through protracted interactions with law enforcement agencies and state and local governments.

Existing Literature

Drug policy has been a central problematic in the social science literature for decades. In the 1930s, Alfred Lindesmith became the first scholar to look critically at the harmful consequences of punitive drug policy. His work paved the way for later scholars who looked at the negative effects of a policy that some have characterized as “punitive prohibition” (Reinarman and Levine 1997). In the 1940s, Mayor Fiorello LaGuardia of New York City organized a team of scientists to investigate the cannabis use and policy in the Big Apple in response to fantastic allegations put forth by the director of the Federal Bureau of Narcotics in the previous decade. In the 1960s and the early 1970s, sociologists Becker (1963), Gusfield (1963) and Duster (1970) all looked at the symbolic content of drug prohibition and the role of social status in determining which types of drugs were prohibited. During the 1980s and 1990s, epidemiologists and other scholars concerned with the intersection of drug use and drug policy would develop the harm reduction approach in response to the AIDS epidemic (Erickson, Riley, Cheung and O’Hare 1997; Marlatt 1998, Paone et al. 1999; Sherman and Purchase 2001). Beginning the 1990s, the racially discriminatory consequences of the war on drugs became a major area of inquiry for scholars of drug policy (Tonry 1995; Reinarman and Levine 1997; Wacquant 2001; Western 2006). While they have often been critical of drug policy, these scholars have rarely had the opportunity to analyze how drug policy becomes more liberal. The emergence and growth of medical cannabis in California presents a unique case of drug policy

becoming less punitive. Consequently, it provides me with interesting questions as a scholar of drug policy change.

Until the latter half of the 2000s, academics have not afforded medical marijuana (and marijuana law reform in general) the same amount of attention as harm reduction. Studies of marijuana policy often focus on legislative and judicial arenas (Fischer et al. 2003, Zeese 1999), but do not discuss the role of individual actors in initiating marijuana policy change. Blain (2002) provides the only scholarly analysis of the drug policy reform movement in a paper he presented at the World Congress of Sociology conference in 2002. He details the emergence of the “anti-drug war campaign” and looks at the strategies that the Lindesmith Center and the Drug Policy Foundation put forward at their 2001 meeting. Blain’s work has been very helpful in providing me with background information and avenues of inquiry to guide my research, but I seek to provide more details about the evolution of drug policy reform and the success of medical marijuana.

Three detailed analyses of medical marijuana in California introduce some of the issues that I seek to explore further. In *Waiting to Inhale*, Journalist Alan Bock (2000) provides extensive coverage of the campaign to pass Proposition 215 in California, from the initiative’s drafting, to making the ballot, to passage in November of 1996. After passage, Bock gives great details about the struggles of early activists to implement the initiative and the counter-attack of federal law enforcement. His emphasis on regional variations in the governance of medical marijuana provides me with a key insight to organize my analysis of local differences

in chapter 5. Bock's history ends in 2000, however, which leaves me with numerous subsequent events to systematically incorporate into my narrative. Historian, Kathleen Ferraiolo (2007) analyzes how drug policy reformers used the ballot initiative process and issue framing to circumvent Federal intransigence with regard to medical marijuana in California and other states. With co-author Richard Webb, sociologist Wendy Chapkis (2008) address many of the philosophical and political issues and debates that bound the idea and provision of medical marijuana. Ultimately, Chapkis and Webb, present an intimately detailed ethnography of the WoMen's Alliance for Medical Marijuana, a medical marijuana collective in Santa Cruz, California.

Although the work of Bock, Ferraiolo, and Chapkis and Webb provide me with rich background material, analyses, and concepts to build on, they leave me with plenty of questions about the growth of medical marijuana, the role of the wider movement for drug policy reform and future directions for reformers. Bock's (2000) work is detailed but not systematic. I seek to build on his ideas by incorporating concepts and insights from social movement theory. I also seek to incorporate the ten years of medical marijuana in California that Bock does not cover. While Chapkis and Webb (2008) present an exquisitely detailed ethnography of a small-scale medical marijuana cooperative, they do little to contextualize the cooperative they study as but one form of medical marijuana provision in California. The narrowness of their focus does not address the role of the wider movement for medical marijuana, or the wider movement for drug policy reform. Ferraiolo's scholarly work provides

some interesting insights by using the concepts of direct democracy and issue framing, but like many treatments of the medical marijuana movement, she does not address the important role that activists and organizations play in instituting and defending medical marijuana “on the ground.”

In addition to building on, and contributing to the field of drug policy studies and the growing literature on medical marijuana, I draw on social movement studies. Social movement scholars have focused on a variety of questions over the past century and a half. Classical works, including Marx’s (1851) class-based analysis of the Paris commune and LeBon’s (1896) *The Crowd*, have cast a long shadow on the field, defining central problems and providing fuel for debate. In North America, scholars used the social psychological lens of collective behavior until the 1960s (Smelser 1963, Blumer 1971), when resource mobilization theory and Olson’s rational actor approach displaced this orientation. Political process theory sprang from resource mobilization in the 1970s (McAdam 1982). It provided the dominant framework for U.S. sociologists throughout the 1970s, 1980s, and into the 1990s (Crossley 2002). Essentially, political process theory emphasizes the importance of political, legal, and (later) cultural contexts in shaping the outcomes that social movements achieve. Many of the insights and concepts of political process theory guide my analysis of the drug policy reform and medical marijuana movements in the middle chapters of this dissertation.

Eventually new social movements theory, which began in Europe in the early 1980s, and the cultural turn in the social sciences would influence social movement

scholarship in the U.S. The latest currents in the field have been the emotional turn (Flam and King 2005; Gould 2009) and the study of global social movements (Moghadam 2009). Throughout this dissertation I will be synthesizing various strains of social movement theory to analyze the development of the drug policy reform movement, the sites where it constitutes itself, the features of the medical marijuana movement within it, and the transition of medical marijuana from a social movement to a hybrid of movement and industry.

Research Questions

In this dissertation, I explore the origin, development and growth of the medical cannabis phenomenon in California. Medical cannabis is the most significant change to drug policy since the United States formally prohibited cannabis in the 1930s. Essentially, the medical marijuana phenomenon represents the most successful movement outcome for the wider drug policy reform movement. Movement outcomes have received relatively little attention from social movement scholars, who have focused on issues of movement emergence, recruitment, elite benefactors, and political context (Giugin, McAdam, and Tilly 1999). The emergence of medical cannabis at the height of the War on Drugs is quite remarkable, and leads to several research questions that guide the organization of this dissertation. The relative success of the medical marijuana movement demonstrates that drug policy reform is possible, but very difficult to achieve. The movement highlights the power that opponents of reform wield in maintaining the regime of prohibition.

Chapter one foregrounds the role of affect in connecting the seductive ideology of drug prohibition to the body politic. This chapter asks:

- How does the discourse of prohibition mobilize public support for punitive drug policies?
- How have the proponents of prohibition been able to marshal support for prohibitionist policies over the 90-year history of drug prohibition, while the institutional logics in support of other public policies have been subject to revision and revolution?
- Why has the drug policy reform movement been so unsuccessful in challenging the regime of punitive prohibition?

By using the lens of affect to analyze the discourse of drug prohibition, this chapter makes an important contribution to the sociology of drug policy and demonstrates what our drug policies reveal about U.S. society and U.S. politics. This chapter also provides important historical background for the analysis of the drug policy reform movement that follows by dissecting the historical development of the ideology of prohibition, and exhibiting the logic that the reform movement must contend with.

The next set of questions I seek to answer are the dominant concerns for scholars of social movements:

- What were the origins of the drug policy reform movement?
- What role have social movement organizations played in the movement?

- Have the foci of the drug policy reform movement changed to reflect the changing grievances of the movement's participants?
- Why did the movement have success in the 1970s, only to lose ground in the 1980s?
- How does the phenomenon of medical marijuana relate to the wider drug policy reform movement that initially began in the 1970s?

Next I use insights from political process theory to explore a lacuna in the study of social movements, the importance of sites of activity to the movement. Building on key insights from political process theory, I expand Tilly's concept of repertoires of action to include the sites where the movement takes place. This focus guides chapter 3 and seeks to flesh out a model of a social movement by looking at where the drug policy reform movement takes place and shows itself.

- What sites are integral components of action in the drug policy reform movement?
- How do hemp rallies, conferences and the Internet allow people to participate in this movement?
- What can social movement scholars learn about a given social movement by observing its key sites of activity?

After addressing questions about the movement's challenges, origins, organization, and spatial configuration, I provide a case study of the movement's biggest success; medical marijuana in California.

- Did the participants, organizations and funders of the wider drug policy reform movement play a significant role in the development of medical cannabis in California and beyond as resource mobilization theory claims?
- Was the political opportunity structure of the San Francisco Bay Area the crucial factor in the formation of the movement?
- If so, what was it about the political, cultural, and legal context of this region that allowed for the movement to take root?
- How do the political opportunity structures of different cities in California affect the provision of medical cannabis in a given locale?
- What role do activists play in shaping local contexts of action?
- Finally, how has the movement changed from a social movement to an industry over its fifteen-year history?
- How does this change affect the ability of medical cannabis actors to shape their fortunes and the future of drug policy reform?

This section uses political process theory to first account for the factors that contributed to the initial development of medical marijuana in the Bay Area. Next it looks at how activists shape political opportunity structures in different parts of the state, and who differing structures lead to different outcomes with regard to medical marijuana dispensaries.

Using a diverse set of qualitative research methods, I address this set of research questions to provide a comprehensive view of one specific type of drug

policy reform. My goal is to first situate the medical cannabis movement historically, within the context of nearly a century of drug prohibition and four decades of drug policy reform. Next I seek to situate the movement for drug policy reform spatially, by observing the sites where participants in the movement are active and where the movement largely takes place. Third, I analyze the components of the political opportunity structure of the San Francisco Bay Area, and how they contribute to the nascent movement in the early 1990s. Fourth, I compare the political opportunity structures for medical cannabis in three California cities, noting how activists have influenced the structure of opportunity. Finally, I account for how the movement has changed into a hybrid and what that change entails for the future of the movement and social movement theory.

Originally, my central research question was, how did the medical marijuana movement begin, grow and change, and how has the state responded? I also wanted to examine the relationship between the drug policy reform movement and medical marijuana in California. My original point of departure was based on the episteme of dependent and independent variables. I hypothesized that the drug policy reform movement was the independent variable and that phenomenon of medical marijuana was the dependent variable. I sought to measure the influence of the drug policy reform movement on the form and character of medical marijuana. After seven years of fieldwork as a participant observer in various aspects of the medical marijuana movement, I have revised this antiquated image of variables for an approach premised on the dynamic and dialectical relationship between the phenomenon of

medical marijuana and the drug policy reform movement.

While the DPRM played a key role in the expansion of medical marijuana from the San Francisco Bay Area to the entire state of California in 1995 and 1996, its role was only critical during the ballot initiative process. Shortly thereafter, medical marijuana began to have a pronounced impact on the drug policy reform movement. It changed the movement's focus, enlisted new participants and constituents (medical marijuana patients, providers and doctors), altered its priorities and most important, provided the movement with its first major success story since the mid 1970s. After the electoral success of Proposition 215, the national organization Americans for Medical Rights formed to export the ballot initiative approach to other states where it became a viable avenue for the legalization of medical marijuana. Newer organizations, including Americans for Safe Access, formed in response to emergent challenges faced by medical cannabis patients and dispensaries.

I seek to move beyond other academic and journalistic treatments of medical marijuana that treat the electoral success of proposition 215 as the end point in the struggle for medical marijuana. From my field research, I've discovered that the provision of medical cannabis is an ongoing process. It requires an extended commitment to both political activism and direct action. While legal change is a necessary first step in implementing drug policy reform, it takes dedicated action on the part of organizations, cannabis providers and local governments to allow for the existence of cultivation and dispensaries "on the ground." Because of ongoing

opposition to medical cannabis on the part of federal law enforcement agencies, new drug policy modalities (including medical cannabis dispensaries) have to be constantly defended and protected. I theorize the implementation of a new system for cannabis provision as an outcome of the drug policy reform movement.

By theorizing the provision of medical marijuana as a movement outcome, I seek to shed light on a lesser-studied aspect of social movements, how movements contribute to both institutional and cultural change. The provision of medical marijuana through collectives and storefront dispensaries is a profound departure from the regime of punitive prohibition, where the production and consumption of marijuana are relegated to the illicit market and hidden from public view. By opening up a novel system for the production and consumption of cannabis to state and public scrutiny, the medical cannabis movement has profoundly altered the cultural representation of cannabis, transforming the plant from dangerous to therapeutic. While I draw extensively from political process theory to explain the shape of the medical marijuana movement's success in changing the legal and institutional status of cannabis, the movement has also had a profound effect on the cultural status of the substance. To theorize the provision of cannabis as a movement outcome, I define medical cannabis collectives and dispensaries, as "modalities of reform." These modalities are characterized by physical locations, and a set of practices that participants engage in to provide cannabis in a licit manner. Although lobbying, organizing, and other social movement activities may occur at such sites, the primary purpose of such modalities is the provision of cannabis.

To answer this set of research questions I will draw on social movement theory and six years of qualitative fieldwork in the overlapping medical marijuana and drug policy reform movements. My study first looks at the history and discourse of drug prohibition, then the history of the drug policy reform movement and the specific sites where the movement occurs. Next, I will examine the medical marijuana movement. For analytical purposes, I have divided the movement into three distinct phases, birth, development, and fruition. The first, or birth, phase looks at how the movement originated in the San Francisco Bay Area, and the specific features of that region that contributed to its formation. This stage lasts from roughly 1990 to 1996. Next, I look at the development of the movement, how it spread outward from the Bay Area and the different approaches to medical marijuana taken by activists, providers and officials in different parts of California. This stage lasts from 1997 to 2009. Thirdly, I will examine how the medical marijuana movement has transformed into an industry.

Methods

My in-depth study of drug policy reform at both the organizational and practical levels required me to branch beyond the traditional methods of quantitative sociology. I sought to get the inside story from insiders' perspectives, to construct new categories of analysis, and to use these categories to understand the ever developing phenomenon of drug policy change. Since the data I sought was not amenable to quantitative analysis, I eschewed surveys, secondary data analysis and structured interviews. To conduct this study I employed four main types of research

methods; participant observation at cannabis dispensaries, drug policy reform conferences, organization meetings, and festivals, depth interviews with activists and organization leaders, archival research of movement websites and literature, and archival research of media coverage of drug reform modalities and movement outcomes. I also analyzed state response to this movement as conveyed through official documents and news sources. As my project progressed, I used the Internet to explore how the movement uses social networking sites to connect activists to one another and to coordinate new forms of Internet based action.

My ultimate goal for this research project is to construct a coherent historical narrative of the drug policy reform and medical marijuana movements. Because I sought to create a narrative, qualitative methods were well suited to my task. At the beginning of the process, I needed to look at existing sources on my topic to discover where I needed to fill in the blanks. My use of theory and method was hybrid in form. Because of my exploratory orientation, I intended to deviate from the deductive, theory testing, orientation that guides much quantitative work in sociology (Glaser and Strauss 1967; Becker 2009) Although I did not intend my study to be exclusively generative of entirely novel “grounded theory” (Glaser and Strauss 1967), I also did not completely eschew existing theoretical work in the sociology of social movements and sociology of drugs. Instead I used a dialectic approach employing existing theories from the study of social movements to guide my initial research, and a grounded theory orientation to new data I found that augmented, stretched and contradicted existing theory. This qualitative approach is well suited to

my purposes of constructing a narrative of drug policy reform from the viewpoints of its participants, and presenting a study that is amenable to the goals of public sociology (Gans 2010).

To map the distribution of the wider drug policy reform movement, initially I examined movement documents, literature from conferences and organization websites to discover and catalog the various organizations that comprise the movement. This aspect of my project gave me an understanding of the various concerns that motivate organizations in the movement, its organizational bases, and the number and size of organizations involved in the wider movement. Through cataloging the various organizations that comprise the movement, I was also able to see the geographical distribution of movement organizations. The websites of drug policy reform organizations will also provide an understanding of the way that movement actors frame their concerns and goals, and which symbols and values they use to animate their activism.

Recently, social networking websites including “Facebook” have afforded activists with new venues for networking and engaging in lobbying activities. Internet based activism has included organizing boycotts of corporations unsympathetic to drug use, petitioning government officials and Congressional representatives, and keeping members abreast of organizational campaigns. In addition to linking participants to one another and keeping them informed about movement activities, social networking sites also offer activists a platform for

lobbying politicians and publicizing their efforts. I will include an examination of these websites to assess the breadth of activity in this movement.

Participant Observation and Depth Interviews

The primary research method I used to conduct my research was participant observation. As noted above, I have participated in drug policy reform for over ten years. Throughout this study I also directly participated in a particular modality of drug policy reform, working in a medical cannabis dispensary. By working as an employee in a medical cannabis dispensary, I was able to experience first hand what became a central discovery of my research, the hybrid character of the medical marijuana movement (part movement and part industry). After doing a thorough review of the social movement literature, I was able to build a theoretical vocabulary to explain this transition as a shifting of fields, from the political field to the commercial field. By working in the hybrid field of medical cannabis, I experienced the quotidian shifts in discourse and practice that facilitate the transition between these two fields of practice.

The unique perspective I gained as an employee in a medical cannabis dispensary also gave me a front row seat to the framing strategies that people use at an active site, or modality, of drug policy reform. I was able to learn and practice the shift in diction that my fellow employees and I used to accomplish the discursive shift of changing a previously illicit substance (marijuana) into a legitimate or licit substance (medical cannabis). On a practical level, by working at a dispensary I was able to meet other activists, medical cannabis patients, and attend numerous drug

policy events as a volunteer. My status as an employee gave me entrée into the world of drug policy reform and also made my research feasible with minimal outside funding.

I used participant observation to explore the sites where the drug policy movement constitutes itself. This element of the study looked at two locations where participants in this movement most often interact with one another face-to-face, festivals and conferences. As noted by social movement scholars, face-to-face interactions are necessary to supplement the technologically based networking of participants through the Internet and other communication technologies. In addition to providing demographic data about attendees, the public speakers, panel discussions and presentations at these events offered rich qualitative data about the movement. I used this data to analyze how drug policy reformers frame their actions and to discover the key concerns of movement actors. I also used these events as convenient places to gather literature from various organizations.

In addition to attending hemp fests, and conferences hosted by organizations, I attended several types of meetings during the course of my research project. I attended monthly and annual meetings of organizations, city council meetings, and city medical marijuana task force or commission meetings. These various meetings proved to be excellent sites for gathering qualitative data on how organizations and city governments work to regulate the emergent phenomenon of medical cannabis.

To illuminate how organizations change drug policy, how various organizations work together, and the biographical dimensions of drug policy activism,

I conducted in-depth qualitative interviews with the members of several different drug policy reform organizations. I employed a snowball sampling technique to reach the leaders and members of drug policy organizations. I sought out key figures in the medical cannabis movement to gain access to their unique knowledge of the movement's history, policy outcomes (successes and failures), collaborating with other organizations and elite benefactors, and interactions with government officials. My interviews with key figures helped me to answer my research questions about the political opportunity structures that allow for novel drug policies. I also asked my interview subjects about their biographies, how they became involved in activism and what led to changes in their political consciousness.

Occasionally, participants in the drug policy reform movement engage in public protest and acts of civil disobedience to decry existing drug policy and institute new policy arrangements. I attended and participated in a medical cannabis protest in November 2011. The events that precipitated the protest, the number and types of people in attendance and the slogans, speeches, and chants that the protesters used provided rich data for examining how medical marijuana is both a social movement and an industry. Episodes of civil disobedience also provide unique sites to analyze the interaction between the state and the drug policy reform movement. Under what circumstances do activists engage in civil disobedience? What metaphors, slogans and symbols do protestors deploy?

Methodological Concerns

Issues of reliability and reactivity are potential weaknesses of this research design. As Katz (1982) notes, qualitative research methods do not easily conform to the standards of traditional social scientific methods; validity, reliability and generalizability. According to Comaroff:

Anthropology always rests on a dialectic between the deductive and the inductive, between the concept and the concrete, between its objectives and its subjects, whose intensions and inventions frequently set its agenda. The failure to grasp this may account for the autonomic dismissal of ethnography as unrigorous, unreplicable, unfalsifiable. (as quoted in Becker 2009: 546).

By using interview data, however, I open myself up to issues that threaten internal validity. In addition to relying on the veracity of my informants, I also face the pitfalls of memory recall. According to Banks (1972: 67 as quoted in Schutt 2004: 343), the recollection of past stances is “notoriously subject to modifications over time.” I plan to increase the internal validity of my study by using corroborating sources, including newspapers and official documents (Schutt 2004).

The success of the project hinges on my ability as an interviewer to gain the trust of informants, which in turn can lead to issues of sympathetic portrayals of subjects’ behavior. Fenno (1978 as quoted in Schutt 2004) argues that sympathy with subjects can detract from a researcher’s ability to be critical about data collection and research findings. Regarding reliability, because this research design relies heavily on my ability to gain entrée to a specific population, it would be impossible for a researcher without my connections to replicate the interviews that I conducted.

Because I am using a nonprobability snowball sampling technique, I do not contend that the findings of this research will be generalizable to other populations or

to other medical cannabis reform movements. However, the findings of this project could contribute to general theories of activism and to specific analyses of drug policy innovation. I seek to contribute to our knowledge of how drug policy activists forge change under the repressive reality of US drug prohibition. It is my hope that this study will contribute to the sociology of social movement tactics that will be useful to other social movement scholars and activists. By using a hybrid approach to theory testing and theory building I seek to contribute new theoretical insights to the sociological field of social movements and drug policy.

Challenging a Formidable Opponent

What unites the diverse organizations, funders and participants of the drug policy reform movement is a belief that prohibition as an overarching approach to dealing with illicit drug use creates many problems for individuals and society. Although not all organizations and individuals in the movement agree that prohibition should be rolled back in its entirety, all the organizations in the movement find at least some aspects of prohibition to create more problems than it solves. In the 1970s, organizations sought to decriminalize (or legalize) the adult use of cannabis because they viewed its prohibition as an affront to individual liberties, and because it relegated a whole class of otherwise law-abiding individuals to criminal status (Stroup Personal Communication 2010). In the 1980s, the harm reduction movement began as a public health based response to the spread of HIV and Hepatitis C among injection drug users. Eventually harm reduction blossomed into a philosophy undergirding an alternative approach to drug problems (Erickson et al. 1997). It was not

until the mid 1980s that a wholly anti-prohibitionist branch of the movement coalesced around the issues of racial injustice and the prison boom, human rights and instability in drug producing countries (Trebach and Zeese 1990; Blain 2002; St. Pierre Personal Communication 2010), and a reintegration of earlier branches of the movement (cannabis reform and harm reduction). All three branches of the movement actively challenge the discourse of drug prohibition, in addition to specific policies sustained by the “drug control industrial complex” (Reinarman 2011).

At an abstract level, the various organizations and participants of the drug policy reform movement are engaging in a collective argument with supporters of drug prohibition. Billig (1995) uses a discursive approach to the conduct of social movements. In the tradition of social psychology, he emphasizes the importance of language for movements. “Social movements can be seen as a conducting arguments against prevailing common sense” (78). This makes the rhetorical tasks of social movements challenging because most attempts at persuasive discourse appeal to common sense. Essentially the movement argues “prohibition creates more problems than it solves.” As seen with the Occupy movement that began in New York City’s Wall Street district in September 2011, one of the most powerful effects a movement can have is on changing the national discussion or debate. While sociologists and economists have decried income stratification, income inequality and the ever-shrinking middle class in the U.S. for decades, the Occupy movement was able to shatter the commonly held and widely disseminated myth that the U.S. is overwhelmingly a middle class society typified by a high degree of mobility.

Although politicians and journalists have decried the central tactic of the Occupy movement, by physically occupying public space the movement was able to change the public debate much more quickly than movements that rely primarily on social movement organizations to make things happen.

What makes the argument particularly difficult for the movement to win is an imbalance in access to what I have termed the means of representation. Until the 1990s, supporters of prohibition have had privileged access to the means of representation. As I show in chapter two, the drug policy reform movement is using the Internet to address this disparity with increasing success. In addition to challenging the discourse of prohibition on the Internet and increasingly in the mainstream news media, the drug policy reform movement converges at conferences and hemp rallies to vocalize, experience, and broadcast its challenge to the discourse of drug prohibition.

The movement challenges both the policies enforced in the name of prohibition and on a more abstract level, representations of drug users and drug use that prohibitionist discourses seek to portray. By challenging policies and representations that are part and parcel of those policies, the movement collapses a conceptual division that New Social Movements theorists including Alberto Melucci and Manuel Castells seek to draw, the idea that movements are about cultural stakes and not legal or political stakes. I consider the question of whether the drug policy reform movement seeks political or cultural change during my research, and will revisit this dichotomy in later chapters.

Uniquely, the movement's goals draw it into an open conflict with both national and local government agencies and international governing bodies such as the United Nations. Many of these agencies are explicitly tasked with eradicating illicit drugs and they depend on sustaining drug prohibition for their very livelihood. Coomber and South begin the anthology, *Cultural Contexts and Drug Use*, by critiquing the official U.N. statement on drug prohibition. They note that the position is entirely utopian, unrealistic, and unappreciative of cultures that deviate from the view that illicit drug use is nothing less than wholly evil. The U.N. document that Coomber and South critique, serves as a concise distillation of prohibitionist ideology. According to the following United Nations General Assembly Political Declaration from 1998 (as quoted in Coomber and South 2004:13):

Drugs destroy lives and communities, undermine sustainable human development and generate crime. Drugs affect all sectors of society in all countries; in particular, drug abuse affects the freedom and development of young people, the world's most valuable asset. Drugs are a grave threat to the health and well-being of all mankind, the independence of States, democracy, the stability of nations, the structure of all societies, and the dignity and hope of millions of people and their families.

This declaration shares several key points with the ideology of the temperance movement and the drive to prohibit alcohol that swept the U.S. at the turn of the twentieth century. The almost magical qualities given to the ill-defined category of "drugs" imbue them with the ability to wreak havoc on a variety of political and social arrangements. Its authors' portray drugs as the cause of a catalog of ills. Chief among them is the threat that drugs pose to the "freedom and development of young people." By painting drugs as monolithically problematic and harmful, this ideology

calls for a solution to the putative problems caused by drugs that is equally extreme and monolithic; the complete eradication of (illicit) drugs (Coomber and South 2004).

According to Reinerman (2011:5): “The drug control industrial complex is the most important force sustaining the criminalization of cannabis.” Reinerman (2011) theorizes the agencies and organizations officially tasked with fighting the war on drugs as the drug control industrial complex. According to Reinerman (2011: 4-5):

....The people who work in drug control agencies share intelligence, equipment, technical knowledge, professional lore, and an anti-drug ideology. They also share material interests. The budgets of these agencies and the careers of the drug control agents who work in them depend financially on a perpetual threat of ‘drugs’ and on the inference that only more stringent criminalization will finally turn the tide.

Reinerman (2011: 5), continues this “drug control industrial complex” includes the:

Drug Enforcement Administration, the Office of national Drug Control Policy, the Federal Bureau of Investigation, the Central Intelligence Agency, the State Department (Narcotics Control), Units of the Armed Forces, Immigration and Customs Enforcement, federal and state prisons and prison guard unions, state police drug squads, local police drug squads and drug testing companies in the private sector.

Reinerman (2011: 6) notes that the drug control industrial complex branches into civil society as well by including “narcotic officer associations.” This civil society branch of the complex plays a key role in working against drug policy reform.

when drug policy reform activists gathered enough signatures to get a marijuana legalization measure on the 2010 ballot in California, the California Police Chiefs Association , the California Narcotic Officers’ Association, and police union lobbyists led the opposition.

A similar cast of characters opposed a 2005 ballot initiative intended to reform California’s three strikes policy that was put sponsored by the Drug Policy Alliance.

Although Proposition 5 was headed for a narrow victory, opponents in the drug

control industrial complex used a late stage media blitz to insure its defeat. As demonstrated by Bullington (2004), the drug control industrial complex also has international branches in various organizations of the United Nations. According to NORML Executive Director Allen St. Pierre (Personal Communication 2010), the Office of National Drug Control Policy mandates that its director, the Drug Czar appointed by each new president, must actively work against any political activity directed toward drug policy liberalization.

Full Disclosure: My Personal Connection to Drug Policy Reform

At the outset, I wish to make it known that I am not only an academic observer of drug policy reform, but I am also an active participant. My position as both an advocate for and observer of drug policy reform presents a difficult balancing act. While I strive to objectively represent and analyze the drug policy reform movement, I wholeheartedly support the basic argument of drug policy reform; prohibition is an ineffective way to deal with drug use and it creates more harmful consequences than it addresses. By having a stake in the struggle I am writing about, I am following in a long line of social analysts who present an engaged view of the social problems they study. While taking a normative position on drug policy precludes me from any pretense of “values free” sociology, I do not recuse myself from the goal of presenting as objective a picture as possible of drug policy reform and medical marijuana.

I first became conscious that people and organizations were seeking to reform cannabis laws in 1994. At that time, I had no idea that a wider drug policy reform

movement existed. I attended a “hemp rally” in Lafayette Park in Washington, D.C. on the fourth of July, and was introduced to a loosely organized group of activists and speakers who had set up tables at the event. Activists were distributing literature, compiling mailing lists and talking to attendees. I was shocked that attendees were openly smoking cannabis within view of the Whitehouse. I was also shocked that somewhat formal looking organizations (with folding tables and everything!) were in attendance. This small act of civil disobedience was remarkable to me for several reasons, it was collective, it was fun and I felt like I was part of something bigger than myself (as many participants in movements do). The police did not arrest anyone, despite the rampant law breaking that was going on. During the event, attendees transformed cannabis smoking from a private act of criminality to a public statement of defiance. This experience opened my eyes to the political dimensions of drug use and to the existence of a collective challenge to drug policy.

While attending college at the University of Virginia, my consciousness of the political ramifications of drug use and drug policy expanded greatly. I went to National Organization for the Reform of Marijuana Laws (NORML) meetings and learned about the consequences of drug use and policy from the experiences of several friends. During the year before I arrived at the school, the DEA had conducted a joint operation with local, state and university police that targeted LSD users on campus. In a series of sting operations, undercover police purchased LSD from several college students. After meeting some of the young men that had been sent to prison and another friend who was arrested for possession of ecstasy, I became

increasingly enraged that my otherwise law abiding friends had served prison time for using psychedelic drugs to explore their own consciousnesses. When I attended several Grateful Dead shows in the spring of 1995, I witnessed the DEA's efforts to arrest people for LSD and read about sting operations in *Rolling Stone* and the local papers in the cities where the Grateful Dead was playing. The highly criminal status of cannabis, ecstasy, and LSD was a puzzle to me, one that continues to motivate my efforts to understand drug policy and how it changes.

As a graduate student in Criminology and Criminal Justice, I joined the Florida State University chapter of NORML. As a member of this active chapter of NORML, I became familiar with the variety of tactics and approaches that drug policy reform organizations use. FSU NORML had several campaigns and events during my two years at the school. One area of concern for our chapter was a 1998 law that denied financial aid benefits to college students who had been convicted of drug offenses. One founding member of FSU NORML, Chris Mulligan, went on to found an organization called the Coalition for Higher Education Act Reform that focused exclusively on changing this law. The chapter was very active and had success with outreach. After forming the first NORML chapter at a public university in the state, it helped to found NORML chapters at many other public colleges in the state, including the University of Central Florida, Florida Atlantic University, and the University of South Florida. Additionally, the Florida State University chapter served as the launching platform for the non-college affiliated chapter, Florida NORML.

In 2002, our chapter attempted to pass a city level initiative that would make marijuana law the lowest law enforcement priority in Tallahassee. Similar initiatives have been passed in several other cities across the country. Most notably, Ann Arbor, Michigan was the first city to pass such a measure in 1973. The city of Berkeley, California passed similar measures in 1972 and 1978. Although numerous states passed decriminalization bills in the 1970s, city level initiatives were largely abandoned until the late 1990s, and not used in earnest until the early years of the 2000s. Trying to get such a measure on the ballot in Tallahassee, Florida, however, was an entirely different prospect. Unlike California and Michigan, Florida has been one of the least progressive states with regard to drug policy. Although our group gathered the requisite signatures to get the initiative on the ballot, and worked with an attorney to insure that the initiative would not violate the city's constitution, the hostile city attorney single-handedly quashed the measure, on the grounds that it violated the city constitution. Our chapter also gathered signatures for a ballot measure that would have made marijuana the lowest law enforcement priority for the city of Tallahassee. Although we obtained the proper number of signatures, the City Attorney quashed the ballot measure on a legal technicality. This was my first experience of the state acting to shut down a legally available avenue to drug policy reform.

Despite this setback, our chapter would persevere and have success on other fronts. We organized two campus "hemp rallies" that featured numerous speakers in the marijuana law reform movement, tables staffed by representatives from various

organizations, and musicians. One symbolically significant action occurred at a community, “town hall” style meeting, entitled “United We Stand Against Drugs.” The meeting’s organizers presented at as a panel discussion and community forum. Additionally, it was a recruitment event for the Drug Enforcement Agency and local law enforcement agencies. While it was promoted as a community forum with a panel of experts, it was essentially a well-orchestrated public relations event for law enforcement and the continuation of a prohibitionist approach to drug policy. I became aware of the event after reading a placard touting the event as a D.E.A. recruitment event in the lobby of the School of Criminology and Criminal Justice. I notified several NORML members and about ten of us were able to attend. We dressed well for the event and planned to blend into the crowd, be dutifully polite, and then ask incisive questions that would undermine the positions that were put forth by the panel and its emcees.

The event featured both a structured panel discussion with an attendee question and answer session, tables staffed by D.E.A. recruiters, and refreshments. Two local T.V. personalities served as the event’s emcees. The panel was a veritable who’s who of Florida’s drug warriors with two treatment workers thrown in to give the appearance that the fight against drugs wasn’t exclusively law enforcement’s battle. The panel consisted of then-DEA head Asa Hutchinson, Florida’s state drug czar (Florida is the only state with a drug czar), the Tallahassee Chief of Police, the Leon County Sheriff, and the FSU Chief of Police. Outside the meeting room, several D.E.A. agents were staffing tables featuring promotional displays for the

agency and handing out D.E.A. memorabilia including highlighters, flashlight key chains and pens. One table that was put together by the Tallahassee police displayed a city map of Tallahassee featuring red dots to mark each drug related arrest in the city. Not surprisingly, the vast majority of the dots were covering Tallahassee's racially segregated "Frenchtown" neighborhood on the map. I took some pictures of the display and pointed out the apparent racial disparity in arrest practices to some of my fellow NORML activists. I also noted the apparent racial disparity to the police officer staffing the table. It soon became apparent that our group of well dressed and well scrubbed university students were not there to join the D.E.A. or the police, but to challenge the official line that they sought to present. After we left the T.P.D. table, we visited some of the D.E.A. tables and soon noticed that several suit-wearing individuals were watching and photographing us in a not too clandestine manner. We presumed that these people worked for the D.E.A., but were not dissuaded from going inside the event. After visiting some D.E.A. tables, I noticed that the police had removed the large folding map of the city (that laid bare its racially discriminatory enforcement practice).

It was a made for T.V. event, but I doubt its promoters had any idea what kind of T.V. they were in for prior to our arrival. Inside the well-lit meeting room, the event's organizers had set up a dais for the panel discussants. The room also featured a video screen, and several staffed T.V. cameras. Our group of activists separated and sat scattered throughout the room. During the panel presentation, the movie screening and the beginning of the question and answer session, we all remained

dutifully silent and respectful. Separately, we raised our hands and got in line to ask questions of the panel. When I got my chance to speak I took the microphone from the emcee and began to read severally carefully selected points from a one-page fact sheet produced by the SMO The Sentencing Project. I highlighted the facts that we had the largest prison population of any nation, our punitive drug policy had contributed to the huge prison population, and ethnic minorities accounted for the vast majority of drug violation prisoners. While I was speaking I became very animated and visibly angry. It was very empowering to be able to look the men responsible for carrying out the drug war in the eye, and to decry the many hidden consequences of our drug policy in a public forum. I was fairly articulate yet animated too. We had infiltrated a carefully orchestrated public relations event organized by various members of the drug control industry and done our best to expose the negative consequences of drug prohibition.

This action made for great television and the broadcast was played repeatedly on the local public access channel. By the time we left, we had been photographed numerous times by DEA agents, which we took as indicative of our success. Little did I know at the time, my performance would make me somewhat of a local celebrity. In the months after the event, numerous strangers would stop me in the supermarket and say that they had seen me on T.V. with an approving smile. This action solidified my resolve to challenge drug policy. The cavalier reaction of the panelists to our challenges and the attempt to intimidate us by D.E.A. agents served to strengthen my resolve to continue working for drug policy change.

Since I moved to California in 2004, I have remained active in the drug policy reform movement in a variety of ways. I have worked at a medical marijuana dispensary in Berkeley, California for several years, volunteered for an organization called the Cannabis Action Network (CAN), and become a member of various drug policy organizations including Students for Sensible Drug Policy (SSDP) and the Drug Policy Alliance (DPA). One way that I stay aware of what various organizations are doing is through the social networking site, “Facebook.” Throughout this study, my analysis of the movement will be informed by the various ways that I participate in it.

Organization of Chapters

I have organized the dissertation into six chapters and a brief conclusion. Although the six chapters fit together to detail the pre-history and history of medical marijuana in California, they are also intended to be independent analyses of different aspects of drug policy reform. Consequently each chapter uses different theoretical lenses, samples of relevant literature and combinations of research methods to seek answers to diverse research questions. The six chapters link together to first situate my narrative of medical marijuana within the historical contexts of drug prohibition and drug policy reform. In the first three chapters I provide an analysis of drug prohibition, the history of the movement, and the spatial and organizational diffusion of drug policy reform. In the final three chapters, I analyze the medical marijuana movement in California as a case study of the wider movement’s biggest success. A major goal of the dissertation is to provide a social history of both the wider drug

policy reform movement and the more focused medical marijuana branch of the movement. To my knowledge, this social history has not been written before, and narrating it with fidelity was both challenging and rewarding. It is my hope that each chapter is able to stand independently from the larger work, but that they are integrated to compose a richly contextualized and detailed narrative. In addition to contributing to the sociology of social movements and the sociology of drugs, providing the social history of the drug policy reform movement is an important product of my research.

In chapter one, I seek to provide historical context for my study. By tracing the evolution of prohibition through its U.S. history I seek to show the roots of our current drug laws and the role of scapegoating, dichotomization, and racism in their passage. I begin the chapter with a brief review of relevant sociological literature and a short sketch of the historical development of prohibition, as drugs became the target of state and federal laws one by one. Next, I analyze the discourse of prohibition using conceptual tools from the sociology of affect. My goal in this chapter is to show the entrenched rhetoric and emotion of drug prohibition to give the reader an idea of the task confronting the drug policy reform movement.

In chapter two I use in depth interviews, archival materials, and Internet research to trace the development of the drug policy reform movement. I theorize the movement as made up of three branches; marijuana law reform, harm reduction, and anti-prohibitionism. My analysis of the movement is guided by concepts from the social movement literature including insights and categories from Resource

Mobilization theory. After a discussion of the historical context of the 1960s, I give an in-depth analysis of the development and decline of the National Organization for the Reform of Marijuana Laws in the 1970s. I use the categories of Resource Mobilization to emphasize the role of social movement organizations in the movement and to conceptualize the ways the various organizations in the movement relate to one another and funding sources as a social movement industry beginning in the 1980s. After a brief detour through the harm reduction movement in the late 1980s and 1990s, I trace the rise of the anti-prohibitionist branch and how it relates to the two earlier branches of drug policy reform. I close the chapter with a brief description of the current state of the movement and the chief areas of concern for its participants.

In chapter three I seek to highlight the sites of activity for the drug policy reform movement. My goal is to address a lack of focus on physical space and location in the social movement literature. This chapter sprang from my fieldwork and represents a foray into “grounded theory.” Using an ethnographic approach, I attended numerous conferences, hemp rallies, protests, and meetings to discover the importance of such sites to the movement. To theorize the role of such events I sought to build on the existing concept of repertoires of contention. I discuss some of the insights I gleaned from attending movement events, including points of contention, issue framing and the role of emotions.

In chapter four, I use political process theory to analyze the birth of medical marijuana in the San Francisco Bay Area in the early 1990s. I theorize the unique

political opportunity structures that gave rise to the early medical marijuana movement.

Next, I highlight the role of resources, social movement organizations, and elite benefactors in the campaign to legalize medical marijuana at the state level through the Proposition 215 ballot initiative. Finally, I analyze the rise of dispensaries and trace their evolution from cannabis buyers' clubs to medical cannabis dispensary collectives. I also examine the importance of dispensaries as sites of continued movement activity.

Chapter five, "A Tale of Three Cities" looks at medical marijuana dispensaries and how the regulatory climate and political opportunity structures of three different metro areas in the state affect the number and type of dispensaries that take root. By looking at the varying experiences of San Francisco, Los Angeles, and San Diego with the regulation of medical marijuana, I analyze both the structure of political opportunities and the ways that activists alter those structures. Using interview data, observations from attending City meetings, and official City documents, I focus on the ways that medical cannabis providers participate in the political process that affects them. Theoretically, this chapter builds a dynamic view of the concept of political opportunity structures. By looking at the variety of tools that activists use to change the opportunity structures they confront, this chapter also serves as a model for future drug policy reform activists.

Chapter six looks at the transition of medical marijuana from a social movement to an industry and the way that the hybrid movement straddles the fields (a

la Bourdieu) of activism and commerce. I argue that the hybrid status of medical marijuana is unique among social movements and an interesting site for empirical exploration and theory building. Hybrid status also brings significant tensions for participants, and these tensions have developed into pronounced fault lines and factions. As articulated by movement leaders in a series of panel discussions, the hybrid character of the medical marijuana movement and how it should relate to the wider movement for drug policy reform are hotly contested issues. Chapter six concludes by looking at how the state has recently responded to the drug policy reform and medical marijuana movements, and the prospects for drug policy reform in the future.

CHAPTER I: THE HISTORY, DISCOURSE, AND PRACTICE OF PUNITIVE DRUG PROHIBITION

To contextualize the goals of the drug policy reform movement, the opposition it faces, and the discourse that it seeks to counter, I present a brief history of drug prohibition and an analysis of the “drug control industrial complex” employs to generate support and insulate drug prohibition from change. After presenting relevant sociological literature and tracing the history of drug prohibition, I analyze the arguments, rhetoric, and imagery that proponents of prohibition have employed over its relatively brief history. Central to my analysis is a discussion of the emotions that anchor prohibitionist discourse to its cherished subjects, and how Gordon’s (1997) concept of “haunting” can illuminate the workings of drug prohibition. The drug policy reform movement is essentially engaging in an argument with the proponents of prohibition about the merits of the approach. With the advent of the Internet, the proliferation of drug policy reform groups, and their increasing ability to represent reformist discourse in the mass media, participants in the movement are increasingly able to counter the powerful discourse of punitive prohibition. Additionally, as the number of medical marijuana dispensaries has grown, popular culture and news media have made their depiction a favorite subject.

The drug policies pursued in the United States present a complex enigma. Penalties for use are among the most stringent in the world, yet Americans are more likely to use illicit drugs than people in comparable nations. The U.S. is also the most vocal and active exponent of global drug prohibition. The federal government

remains adamantly opposed to drug policy liberalization, but states including California and Colorado allow and facilitate truly revolutionary approaches to the provision of medical cannabis. Why have policy makers and drug control agencies pursued an approach that favors supply reduction, over demand reduction or harm reduction? Supply reduction depends on police and prisons, whereas supply reduction rests on treatment and prevention. Why have drug policy actors used the criminal law and the punitive capacity of the state as the chief instruments of drug control? And why have drug policy actors depended on stigmatizing drug users to marshal support for the policies of punitive prohibition? Although these questions are addressed in this chapter, my overarching focus is how the sponsors of drug prohibition marshal support for its reproduction. Using theoretical insights from the sociology of affect, and my concept of “the means of representation” I analyze the longevity and seductiveness of prohibitionist ideology.

Existing Literature on Drug Prohibition

The story of drug prohibition in the United States is complex and multifaceted. Several noted sociologists have analyzed aspects of this history. Gusfield (1963) examined the symbolic uses of alcohol prohibition, Becker (1963) looked at the role of “moral entrepreneurs” in garnering support for cannabis prohibition, while Duster (1970) looked at the shifting demography and consequent status of opiate addicts and the how morality becomes the province of legislation. In a 1978 article, Himmelstein dubbed these studies “drug politics theory.” Other historical analyses have emphasized these changes but focused on the role of

individuals in the passage of prohibitionist legislation (Musto 1987) or argued for alternative historical processes than those posited by their predecessors (Courtwright 2001). Although Spector and Kitsuse (2001) did not formally delineate the constructionist approach until the early 1970s, the work of Gusfield (1963) and Duster (1970) presaged the turn toward constructionism. Within sociology, constructionist approaches to drug prohibition are prominent among narratives about the origin and reproduction of drug prohibition.

Reinarman and Levine (1997) explored the demonization of crack cocaine for political purposes, while Beckett (2003) showed how politicians constructed drug problems to build consensus around the “hegemonic project” of curtailing the welfare state while increasing the carceral organs of the U.S. government. Reinarman argues that “drug scares” recur frequently in U.S. history and have several consistent components. Reinarman (1994: 92) seeks to understand the “appeal” of anti-drug claims in a nation characterized by “recurring anti-drug crusades and a history of repressive anti-drug laws.” According to Reinarman, drug scares and repressive drug policies are distinct social phenomena that often share seven common components. They are usually based on a “kernel of truth” subject to “media magnification [through] the routinization of caricature,” where worst-case scenario anecdotes are amplified and circulated. Drug scares are the work of mostly self-interested “politico-moral entrepreneurs,” expanding Becker’s concept to the peculiar political capital afforded to American politicians by appearing “tough on drugs,” with no risk of alienating donors or the electorate (Reinarman 1994).

By linking use of drugs such as peyote, opium, cocaine, and marijuana with widely unpopular and feared ethnic minority populations, drug control actors began the project of dichotomization and out-grouping that under-girds U.S. drug prohibition. With alcohol, opium and the local phase of cannabis prohibition, American drug control actors were essentially using the drug law to control ethnic minorities. Gusfield (1963) theorized that proponents of alcohol prohibition (Drys) were engaging in “status politics” with wets. With opium and cannabis, others have argued that the regime of drug control was an alternative means of enforcing cultural discipline (Bonnie and Whitebread 1974).

According to Reinerman (1994: 97), during successive drug scares, professional groups played prominent roles by generating and controlling the “public definition of a problem.” Although “the media, moral entrepreneurs, and professional interests...[often inflate] extant kernels of truth about drug use” without a “historical context of conflict” the actions of such groups are not sufficient to generate drug scares replete with repressive legislation (Reinerman 1994). The concept of “drug scares,” supports my analysis of drug prohibition and its discourse. I seek to deepen the analysis of these earlier theorists by using newer theoretical inroads provided by affect studies.

Although historians trace the impulse to prohibit the ingestion of *some* psychoactive drugs to early European colonialism (Campos 2006; Schivelbusch 1993), policy makers did not install a formal system to eradicate the use of certain drugs until the dawn of the Twentieth century. The system of drug prohibition sprang

from a confluence of interests between elements of the Progressive movement and the U.S. foreign policy elite (Bonnie and Whitbread 1974; Musto 1987). The temperance movement was instrumental in incubating prohibitionist ideology. When combined with racism, xenophobia, and potent “drug scares” early prohibitionist ideology would be formalized to first prohibit the smoking of opium in Western states in the late 19th Century, alcohol in 1920, and cannabis in 1937 (Reinarman 1994). Other drugs, including LSD and MDMA (“ecstasy”), would not be prohibited until the 1960s and 1980s.

In the U.S. the strategy of drug prohibition has created a “regime of truth” that drug prohibition is necessary for the protection of the citizenry. As constructed through discourse, drug policy is an example of the nexus between knowledge and power par excellence. According to Foucault (1990: 100), “...it is in discourse that power and knowledge are joined together.” Discourses of drug use form the arguments upon which drug policies are built. Through policy, actors are able to naturalize and systemize “regimes of truth” that create subjects who are forbidden to use certain psychoactive drugs. Through the discourse of “punitive prohibition” (Reinarman and Levine 1997) and the representations it deploys, drug policies are legitimized and sustained.

Proponents of drug prohibition, (primarily those working in the “drug control industrial complex”) garner support for such policies by representing the discursive formation of punitive prohibition in popular media, professional literature and government reports. I term the various forms of mass media, professional literature

and government reports the means of representation. The forms of media available to both proponents and opponents of prohibition have increased throughout the twentieth century. In addition to newspapers, pamphlets and books in the late 19th century, radio, television and the Internet have diversified the means of representation throughout the twentieth century. Popular culture, including novels, film, music, and television shows have also been important (albeit more contested) sites for representing the discourse of prohibition. The advent of the Internet has done the most to democratize access to the means of representation. In turn the drug policy reform movement has greatly expanded its ability to challenge the discourse of prohibition by using the Internet, a topic I turn to in greater detail in chapter three.

A Brief History of Drug Prohibition

When the Spanish invaded Tenochtitlán in 1519, the Aztecs employed a large pharmacopoeia of plants for spiritual, medicinal (and presumably recreational) purposes (Cocker 1998). Spanish clergymen soon forbade the use of many of these drugs and even destroyed extensive records of plant knowledge in an effort to destroy all traces of Aztec culture. Upon their arrival in the new world, the Franciscans found Peyote evil and sought to ban its use. In 1571 the Spanish Inquisition was introduced into Mexico, and in 1620 it officially declared use of peyote to be the “work of the devil” (Anderson 1980: 162), and issued a ban on its use. An early 17th century manual for Priests entitled *Camino del Cielo*, (Road to Heaven), instructed them to ask Indian penitents: “Dost thou suck the blood of others, or dost thou wander about at night, calling upon the demon to help thee? Has thou drunk peyotl, or hast thou

given it to others to drink, in order to find out secrets, or to discover where stolen or lost articles were (Anderson 1980: 7)?” A manual written in 1760 by Father Bartholome Garcia (quoted in Anderson 1980: 7) includes the following questions: “Have you killed anyone? How many have you murdered? Have you eaten the flesh of man? Have you eaten peyote?”

In Europe and Asia, the eventual popularity of tobacco came only after an early bout of official repression. When soldiers and seafarers began to popularize the vice from the western hemisphere in Europe and Asia in the seventeenth century leaders moved to outlaw its use. According to conservative historian David Courtwright (2002):

English smokers risked the disapproval of James I, who declaimed against the Stygian weed....Russian smokers suffered beatings and exile; snuff-takers had their noses torn off. Chinese smokers had their heads impaled on pikes. Turkish smokers under the reign of Ahmed I endured pipe stems thrust through their noses; Murad IV ordered them tortured to death. Priests who indulged in tobacco during Mass...were threatened with excommunication. (P. 16).

Despite such stringent opposition tobacco had become wildly popular by the eighteenth century (Schivelbusch 1991).

The fortunes of European empires from the 16th to the 20th centuries were inexorably tied to the creation of a large international commerce in psychoactive drugs. Courtwright (2002) argues that psychoactive compounds played an instrumental role in the globalization of the modern world. He shows that drugs, especially caffeine, alcohol and tobacco, were integral parts of colonial economies. These compounds also had significant effects on granting people access to a means of

consciousness alteration that had been unknown prior to global ocean-based commerce. According to Trocki (1999: 10), “Opium was crucial to the expansion of the British Empire during the late eighteenth and early nineteenth centuries, and without it, there may have been no Empire at all.” Furthermore, he argues that the trade in opium laid the groundwork for the “global capitalist structure” (1999: 10), by nurturing European capital and creating extensive foreign markets that were later converted to suit other trade commodities.

Extracts of cannabis, opium, morphine, and cocaine were frequently incorporated into “patent medicines” that were commonplace in the U.S. from the 1840s until roughly 1909. Primarily a measure to insure purity in the food supply, the Pure Food and Drug Act of 1906, was an early victory of the Progressive movement. Among other things, the law required the makers of patent medicines to label the derivatives of opium, cocaine, and cannabis that had been hiding in benevolent sounding tonics and snake oil medicines alike. Once the special ingredients became known, Americans reduced their intake by roughly one third. In a 1908 amendment to the law, intended to curtail the patent medicine trade more directly, prohibited “any medicines containing habit-forming drugs from interstate commerce except under the prescription of a physician” (Musto 1987:23). According to Musto (1987) the amendment was:

an important trade victory for the retail and compounding pharmacists, for it would increase dispensing by pharmacists, decrease sales in grocery stores, and eliminate sales across state lines by mail-order houses (P. 23).

The first major social movement to call for the prohibition of a drug was the temperance movement, “the largest middle class movement of the nineteenth century” (Levine and Reinerman 1991). It sought to first limit and then eliminate alcohol consumption in the U.S. Although the leading intellectuals of temperance would shift, from Dr. Benjamin Rush to Lyman Beecher to Frances Willard and Wayne Wheeler (Musto 2002; Okrent 2010), the movement developed a central ideology by the late 19th that would have long echoing effects for both alcohol and drug prohibition. According to Reinerman and Levine (1997):

...[N]ineteenth century temperance crusaders first articulated *all* the fundamental antidrug arguments later adopted by twentieth-century antidrug crusaders in defense of punitive prohibition...the modern conception of addiction as ‘loss of control’...[the argument that] alcohol was an inherently addicting drug in exactly the same way that people today think that heroin and crack are inherently addicting; they said that moderate users come too need more and more and eventually become ‘hooked.’ Alcohol was also the first drug to be regarded in popular ideology as a major cause of crime and violence...[A]lcohol was the first drug to be scapegoated for larger social and economic problems, including crime, violence, poverty homelessness and slums. (P. 323)

Gusfield (1963: 36) separates the temperance movement into two distinct but overlapping phases. In phase one, “Temperance represents the reaction of the old Federalist aristocracy to loss of political, social, and religious dominance in American society.” During the second phase, “Temperance represents the efforts of urban, native Americans to consolidate their middle-class respectability through a sharpened distinction between the native, middle-class life styles and those of the immigrant and the marginal laborer.” Central to his thesis is the idea that the movement shifted its orientation from “assimilative reform,” in the period from 1826 to 1896 to “coercive

reform,” during the second phase of the movement. The eventual success of the movement in achieving alcohol prohibition was also predicated on xenophobia, virulent racism, and ideology that pitted “native” born Protestants against largely Catholic immigrants from Germany, Ireland, and Italy, during the second phase of the movement.

Two distinct organizations dominated each phase of the movement. During the first, or temperance, phase of the movement the Women’s Christian Temperance Union (WCTU), became the dominant organization when it formed in 1874. Many members of the WCTU were suffragists, and participation in the organization was often the only avenue to political participation available to women in the late 19th century. There were also many links between Temperance, Populism, and Progressivism (Bonnie and Whitebread 1974; Okrent 2010). According to Gusfield (1963:36), by the 1890s, Temperance and Populism were both animated by a “sense of conflict with urban, industrial communities.” According to Okrent (2010), the WCTU was hampered by an omnivorous orientation to Progressive politics and lack of focus.

The Anti-Saloon League spearheaded the concerted push for legislation that prohibited the use of alcohol. By the time the ASL formed in 1896, several states had already voted themselves Dry, beginning with Kansas in 1870 . Unlike the WCTU, the ASL was focused solely on alcohol and it used intimidation as its chief tactic. Its founder, Howard Hyde Russell stated, “the ASL is formed for the purpose of administering political retribution.” By playing the margins and embracing single

issue politics the “Drys” would wield a tremendous amount of political power that eventually led to the passage of the eighteenth amendment in 1919, which prohibited the sale of alcohol nationally. The amendment depended on a fortuitous confluence of Progressive victories including the passage of the national income tax, women achieving the right to vote and a swelling of anti-German sentiment during World War I. As described by Okrent (2010):

The income tax had made a prohibition amendment fiscally feasible. The social revolution wrought by the suffragists had made it politically plausible. Now the Drys had the final tool they needed to wedge the amendment into the Constitution: a war. (P. 95).

When the Volstead Act was passed in 1920 to provide for the enforcement of the eighteenth amendment, the formal prohibition period began. The formal prohibition of alcohol was characterized by utopian thinking that resurfaces among later drug prohibitionists; the idea that alcohol was the root of social problems, its elimination was possible and feasible, and its elimination would lead to a perfect society. The iconic preacher Billy Sunday captured this sentiment with the proclamation he made upon the passage of the Volstead Act:

The reign of tears is over. The slums will soon be only a memory. We will turn our prisons into factories and our jails into storehouses and corncribs. Men will walk upright now, women will smile, and the children will laugh. Hell will be forever for rent. (Okrent 2010: 2).

Despite the earnest intent of its backers, prohibition did not stop the flow of alcohol. Instead it diverted alcohol into more lucrative and underground channels. While the number of drinkers dropped modestly, prohibition created both semi-licit and completely illicit ways to buy and sell alcohol. The byproducts of these alternate

commercial channels were huge spikes in violent crime, graft, bootlegging and boondoggle spending (Okrent 2010). The utopian idea that the state had the ability to eliminate alcohol consumption (and consequently the majority of social problems) resurfaces in the name of the organization “Partnership for a Drug-Free America” and the stated goals of the Office of National Drug Control Policy and the U.N. Office of Drug Control; the complete *eradication* of illicit drugs.

Racist attitudes were prominent among the overwhelmingly “native” born whites that made up the lion’s share of the Drys. Anti-immigrant, (primarily anti-German, anti-Jewish, anti-Italian, and anti-Irish) sentiment played a prominent role in the temperance movement (especially during the final push for the eighteenth amendment). In the Southern U.S., Drys also relied on a potent mix of racism against African-Americans and anti-Eastern industrialist rhetoric to marshal support for prohibition. Strong currents of racism, xenophobia, and anti-immigrant sentiment were also prominent in three related episodes of federal drug prohibition; the banning of opium in 1909, the Harrison Narcotics Act of 1914 and the Marihuana Tax Act of 1937. Although opium did not become subject to prohibition at the Federal level until 1909, its use was outlawed at the local and state level much earlier.

Beginning in the late 1870s, local authorities moved to prohibit the smoking of opium in the Western U.S. and beginning in the 1910s, authorities sought to prohibit the smoking of cannabis in the Southwestern U.S. From roughly 1870 to 1900, many states and cities moved to outlaw the use of opium (Musto 1973), but did nothing to control the use of pharmaceutical narcotics (Courtwright 2001). This

policy targeted the Chinese and white petty criminals for using one form of opium and exempted native-born whites for using different forms of the same compound.

The first (non-alcohol) drug laws passed in the U.S. targeted the smoking of opium by Chinese (im)migrants in California and several other western states (Shelden 2001). As Chinese immigrants moved into California cities after completing work on the railroads in the 1870s, xenophobia and racism typified the response of white English speaking Californians. Ironically, San Francisco, (auspiciously the birthplace of the drug policy reform movement), was the first city to pass a law banning the operation of opium dens in 1875. An 1881 California law penalizing both patrons and operators of opium dens followed the San Francisco ban (Goode 2008). In 1882, Congress banned Chinese immigrants from coming to the U.S. entirely and denied those already in the country the right to become citizens under the Chinese Exclusion Act (Hall, Finkelman and Ely 2005). Although cities and states banned opium smoking, they did nothing to curtail the much more widespread consumption of morphine and opium in “patent medicines” such as laudanum (Duster 1970; Courtwright 2001).

During the late nineteenth century most narcotic addicts were not Chinese immigrants or professional gamblers, but affluent native-born whites, mostly women. When white women injected morphine and imbibed opium (in the form of the liquid laudanum), claims makers (official and popular alike) did not portray such behavior as criminal but as a tragic or unfortunate consequence of medical treatment (Courtwright 2001). Traditional images of drug use feature marginalized individuals

whose behavior violates both social and legal norms, whereas iatrogenic drug users are cast as victims.

The U.S. also embarked on a six decades long mission to institute global drug prohibition early in the twentieth century. The effort to sponsor international narcotic prohibition soon led to a drive for domestic prohibition in the U.S. After gaining possession of the Philippines from Spain in the Spanish-American war, some colonial authorities (most notably the Episcopal Bishop Brent) wrote of their dismay at the population of Chinese opium addicts, and of U.S. complacency on the issue. President Roosevelt commissioned Brent to investigate the drug distribution system in the Philippines and three commissioners from the state department were selected (Bullington 2004; Bewley-Taylor 1999; Musto 1987). Most ambitious of the three, was Dr. Hamilton Wright, who in the spring of 1908, became a tireless advocate for a 1909 Shanghai Convention on the international prohibition of opium and its chemical cousins. To strengthen the position of the U.S. as chief backer of the inchoate international prohibition regime, Wright thought it necessary for the U.S. to first have a federal law in place. The goal of national narcotic prohibition led Wright to become the chief advocate for what would eventually become the Harrison Anti-Narcotics Act of 1914 (Musto 1987).

Musto (1987) details the role of moral entrepreneurs, federal legislation and Supreme Court decisions in implementing both domestic and international drug prohibition. He pays special attention to the period of morphine maintenance and the role of the Treasury Department in regulating and eventually shutting down morphine

maintenance through a series of Supreme Court decisions that re-interpreted the Harrison Anti-Narcotic Act of 1914. From 1918 to 1923, as the Treasury Department arrested doctors under the new interpretation of federal drug law, doctors began to stop prescribing morphine to their addicted patients.

The passage of the Harrison Narcotics Act was a profoundly important moment in the history of drug prohibition. Unlike the alcohol prohibition under the Volstead Act, this legislation actually criminalized drug users, creating a new class of deviants. It was the key moment in the early implementation of drug prohibition. Duster (1970) documents demographic shifts in the population of narcotic addicts in the first decades of the twentieth century and the resulting criminalization of narcotics under the Harrison Act. Individuals who promoted drug prohibition, such as Hamilton Wright, sought to marshal support for their efforts by harnessing the virulent currents of American racism against the Chinese in the West and African-Americans in the South (Marez 2004, Musto 1973, Torrans 2000). Somewhat transparently the title of the second major piece of federal drug control legislation, The Smoking Opium Exclusion Act of 1909, is remarkably similar to the title of the earlier anti-immigrant Chinese Exclusion Act of 1882 (Shelden 2001).

The push for federal cannabis prohibition came later than alcohol and “narcotic” prohibition. Although some states outlawed cannabis in the 1910s, Congress did not pass the Marihuana Tax Act until 1937. Historian Isaac Campos (2006) traces the ideology behind cannabis prohibition to Mexico in the late nineteenth century. He looks to the depiction of cannabis in official documents

during and after the colonial period, and its representation in popular Mexican literature and cartoons. Numerous historical accounts of cannabis maintain that cannabis smoking was a common practice in Mexico (Bonnie and Whitebread 1974; Musto 1987; Sloman 1998). Campos questions the accuracy of this view. According to Campos (2006), the symbolic importance of cannabis does not stem from its widespread use, but from the complete marginality of its use and users. The conflation of cannabis intoxication with the effects of other psychoactive plant drugs in Mexico including peyote and the morning glory plant also contributed to the reputation of cannabis as a fantastically dangerous drug. The “killer weed” myth discussed later by Himmelstein (1983) actually originates in Mexico. Popular descriptions of the drug as leading to violence have long echoing effects for its criminalization on both sides of the border.

Mexican laborers began to move to Texas and New Mexico in search of work during the early 1900s. These workers brought the vice of smoking “Rosa Maria” with them, and soon drug stores, grocers, and mail order companies were providing a supply of imported cannabis from Mexico. According to Bonnie and Whitebread (1974: 32), “the plant and its intoxicant use encountered a hostile political and social climate.” Local law enforcement authorities soon linked cannabis smoking to criminal and belligerent behavior, parroting the alleged link to violent and criminal behavior found in reports from Mexican authorities in the previous decades (Campos 2006).

In the U.S., the impetus to outlaw cannabis use came from local and state authorities, long before the FBN campaigned for federal prohibition. The first ban was passed in El Paso in 1914. A 1917 U.S. Department of Agriculture report from Texas alleged that in addition to Mexicans, cannabis use was popular with “Negroes, prostitutes, pimps and a criminal class of whites,” and its use was tied to violent behavior. In 1915, the Treasury Department banned the import of cannabis for non-medical purposes, but this ban was largely ineffective. According to Bonnie and Whitebread (1974: 51), although the FBN would agitate for strict control of cannabis in the mid-1930s, “from 1914 to 1931, twenty-nine states, including seventeen west of the Mississippi, prohibited use of the drug for non-medical purposes.”

Stories in the popular press played a crucial role in the passage of anti-marijuana legislation. The following 1929 Chicago Tribune article exhibits the shift from the anti-Mexican sentiment of early cannabis control efforts to later appeals premised on a threat to children (Himmelstein 1983):

The number of addicts is growing alarmingly according to authorities....The habit was introduced a dozen years ago or so by Mexican laborers...but it has become widespread among American youths...even among school children...There being no legal ban such as makes other drugs scarce, ‘loco weed’ is cheap.

In the 1930s, growing pressure from local prosecutors, law enforcement and health officials would put the impetus for a federal law on the Federal Bureau of Narcotics. In 1930, the Treasury department created the Federal Bureau of Narcotics (FBN) to enforce the Harrison Anti-Narcotics Act of 1914, and appointed Harry Anslinger as its head. His first order of business was to marshal support for the

Uniform State Narcotic Drug Act. Faced with growing pressure from local and state authorities to do something about cannabis, Anslinger began to lobby for the passage of the Marijuana Tax Act in 1935. To gain support for the passage of the act Anslinger's FBN portrayed cannabis as a "killer weed." Although the view that cannabis was tied to murder and insanity originated in Mexico (Campos 2006) and took hold in the Southwestern U.S. and New Orleans (Bonnie and Whitebread 1974, Himmelstein 1983), eventually the link to Mexico and Mexicans would be shed, while its capacity to foment murder and mayhem would remain. Since so little was known about cannabis prior to the 1960s, the FBN and other interested parties were able to dominate the discussion of cannabis effects up until its use became widespread in the 1960s (Himmelstein 1983).

The Marijuana Tax Act was passed with little debate and only one objection (from the American Medical Association) in 1937. At the time of the Act's passage, Congress was reluctant to regulate what people could possess, so instead they relied on a duplicitous taxation scheme. The scheme relied on a complicated tax structure, which effectively dissuaded physicians from using the drug in medical practice (Brecher et al. 1972). Although Becker ([1963] 1973) argues that the passage of the Tax Act was largely due to Anslinger's work as a "moral entrepreneur," Himmelstein (1983) contends that the need for the act was ironically spurred by the FBN's desire for the passage of the Uniform State Narcotics Act and not out from a desire to increase its sway. After the passage of the act, the FBN began a fruitless campaign to arrest a large number of jazz musicians for smoking cannabis in a dramatic sweep.

Anslinger hoped that targeting the subculture of jazz musicians would lead to a publicity rich mega-bust (Bonnie and Whitebread 1974).

The FBN was able to maintain its dominance of cannabis ideology for another twenty years, but it was forced to update its rationale for cannabis prohibition (Keys and Galliher 2000). Beginning in 1951, the FBN eschewed the link between cannabis and violence as the major threat posed by cannabis use. Their new claim posited a direct link between cannabis use and the initiation of heroin use (Himmelstein 1983). First known as the “stepping stone” hypothesis, eventually this idea would become “the gateway theory.” Although opponents of cannabis law reform stopped using it in the 1970s, the gateway “theory” resurfaced in the anti drug literature of the 1980s and 1990s. Research has shown that the causality implied in the theory is completely unfounded (Earleywine 2002).

The “Stepping Stone” myth connected and conflated marijuana with the other main focus of the FBN in the 1950s; heroin. Keys and Galliher (2000) employ Allport’s (1958) concept of dichotomization between in-groups and out-groups to examine the ways in which Harry Anslinger sought to portray heroin and opiate addicts. They contend that Anslinger:

...dichotomized all addicts placing them in a stigmatized out-group status. The process was so effective that dichotomization became a permanent condition with “primary potency” (Allport 1958: 175) in the mind of the public. But if addicts were not especially weak or hedonistic, then laws that singled them out for persecution could create “moral dissonance.” If, on the other hand, addicts could be successfully dichotomized from other people, prohibitive laws and extreme penalties would be easier to defend. (Keys and Galliher 2000: 129).

Additionally, Anslinger and the FBN actively linked heroin use with communist China during the 1950s.

Anslinger aided the successful dichotomization of addicts in several ways. These included rigid control over the depiction of drugs and their use in cinema and print media, a similar rein on academic inquiries into drug use and addiction, and the ability to construe opiate use and addiction in the terms of cultural folk devils such as criminals and communist sympathizers (Keys and Galliher 2000). Anslinger and earlier moral entrepreneurs such as Richmond Hobson worked tirelessly to promote the image that heroin addicts were “psychopaths” and degenerates, while blocking any sympathetic depiction of them in film or (later) television. At Anslinger’s behest, in 1934 the Motion Picture Association of America, (MPAA), denied their seal of approval to any movie that showed narcotics or their use as anything less than pernicious. According to Musto (2002: 191), this “prohibition ...was enforced with one exception until *Man with the Golden Arm* was successfully exhibited in 1959 without a seal.” Keys and Galliher (2000: 129) contend that Anslinger’s success in banning the 1948 Canadian film, *Drug Addict*, in 1948 “demonstrate the near absolute control of information exercised by the FBN.”

Two federal drug laws passed in the 1950s, the 1951 Boggs Act and the 1956 Narcotic Control Act, escalated and equalized penalties for the possession of cocaine, heroin and cannabis. The 1956 act required mandatory minimum sentences for possession of either of the three drugs to be punished by two years for the first offense, five years for the second and ten years for a third or subsequent offense

(Bonnie and Whitebread 1974). Although these penalties were draconian, the influence of the FBN would wane significantly in the 1960s. Anslinger's three decades tenure as FBN head ended in 1962, and his successors were not as successful at controlling the depiction of addicts as treatment professionals entered the debate (Ferraiolo 2007).

The history of drug prohibition exhibits the racist roots of our current prohibitionist regime. From the late 19th century onward, prohibitionists have sought to harness virulent currents of racism and xenophobia to anchor the fear of drugs and drug users to ethnic others in line with the white nationalism that animated American political life until mid-century. By linking illicit drugs to racist and xenophobic fears of the ethnic other, the white majority assented to draconian penalties for drug offenses during alcohol prohibition in the 1920s, cannabis prohibition in the 1930s, and the stringent laws passed in the 1950s that targeted heroin users. The racism that permeated the body politic during the first half of the twentieth century allowed support for punitive drug policies to gain a foothold and be passed down like racist ideology, from generation to generation. After a brief swing toward drug policy liberalization in the 1970s, the drug policies in the 1980s and 1990s were built on the foundation of these earlier policies, and deployed similar racist strategies for marshaling support. As discussed by Becker (1963), drug control officials sought public support to necessitate and continue the existence of the Federal Bureau of Narcotics. The processes that anchor support for punitive drug policies to the populace are analyzed through the concepts of haunting and affect in detail below.

During the 1960s, demographic and political changes would begin to provide activists and policy makers with new opportunities to change drug policies. The tumultuous social upheaval of the 1960 included a sharp rise in the drug using population as middle class baby boomers came of age during the psychedelic revolution and growing numbers embraced marijuana and LSD as the chief sacraments of the counterculture (Lee and Shlain 1991). Despite a drug scare and the subsequent criminalization of LSD, (which had been legal until 1966) the growth of a middle class population of drug users contributed to a loosening of drug laws when compared to the 1950s (Himmelstein 1983).

While Nixon talked tough and discovered the enormous political capital to be gained from demonizing drugs, his policies were far less punitive than those pursued by later administrations. Nixon added a new “enemy deviant” to the catalog of prohibition’s villains; the LSD-crazed hippie. Paradoxically the growth in middle class drug use altered the ideological landscape of drug control in countervailing ways; by changing the debate around prohibition (Himmelstein 1983) and facilitating new drug scares (Reinarman 1994). Although Nixon first used the phrase “war on drugs” in the 1970s, his approach would look downright progressive by the end of the 1980s. Nixon favored both treatment and enforcement, he was a proponent of methadone programs to reduce crime, but he also oversaw the closing of the Mexican Border under “Operation Intercept” and the formation of the Drug Enforcement Administration as a “superagency” to fight the war on drugs.

Despite Nixon's ability to capitalize on the LSD scare during his successful 1968 election campaign, the growth and whitening of the drug using population culminated in the passage of the Comprehensive Drug Abuse Prevention and Control Act, also known as the Controlled Substances Act or CSA in 1970. Unlike earlier federal drug laws, opponents of an exclusively punitive approach were given a seat at the table during the law's drafting (Spillane and McAllister 2003; Ferraiolo 2007). This change in law gave an opening to drug policy reform groups who made significant headway in reforming marijuana laws during the 1970s. The law called for the creation of a commission, hand picked by Nixon that called for the decriminalization of marijuana by 1972. Using the findings of this commission, NORML and other organizations spearheaded a drive to liberalize marijuana laws in the mid-1970s. Beginning in 1973, with Oregon, the marijuana policy reform movement successfully decriminalized marijuana in eleven states by 1978. In a 1977 message to Congress, president Carter stated:

After four decades, efforts to discourage its use with stringent laws have still not been successful. More than 45 million Americans have tried marijuana and an estimated 11 million are regular users. Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself; and where they are, they should be changed. Nowhere is this more clear than in the laws against possession of marijuana in private for personal use. We can, and should, continue to discourage the use of marijuana, but this can be done without defining the smoker as a criminal. (Carter 1977).

Although activists and analysts agreed that marijuana prohibition's days were numbered in the 1970s, their efforts stalled completely in late 1978. Survey data demonstrated that marijuana use rates peaked the following year in 1979, before dropping steadily until the early 1990s (Goode 2008).

The trend toward drug policy reform that typified the 1970s slowed during the end of the decade and completely reversed by 1980. The push against drug policy reform began with the formation of parents' movement against drug policy reform led by Sue Rusche and the organization Families in Action, which formed in 1979. The countermovement coalesced as parents became angry as headshops, High Times magazine, and teen marijuana use all grew in popularity during the free-wheeling 1970s. After a scandal involving Carter's drug policy advisor snorting cocaine at a NORML party in Washington D.C., Carter attempted to distance himself from the fallout, by abandoning his reformist agenda. Beginning in 1981, an unrelenting, globally distributed, and resurgent "War on Drugs" typified the next 28 years of drug policy. While many had seen the Carter years as evidence of a trend in drug policy liberalization, more accurately, the late 1970s represented an interregnum in the regime of prohibition.

The war on drugs under Reagan and Bush drastically increased both the size and the sway of the criminal justice system. Reagan and Bush also made illicit drug use a central focus of their domestic policy agendas. A highly racialized drug scare featuring crack cocaine, the AIDS crisis, and rising levels of violence in the drug trade characterized the decade (Reinarman and Levine 1997). Two new federal drug laws increased the powers and budgets of drug control agencies, altered the role of judges and prosecutors, and initiated a trend of increasing racial discrimination in the prison system that continues to this day. The 1986 Anti-Drug Abuse Act, passed during the height of a crack cocaine drug scare, featured a now infamous 100 to 1

disparity for powder and crack cocaine, federal mandatory minimum sentences, and increased penalties for those convicted of drug crimes. The 1988 Anti-Drug Abuse Act included provisions for asset forfeiture, which dramatically altered the incentive landscape for law enforcement departments at the local, state, and federal level. In effect, asset forfeiture provides lucrative incentives to prioritize drug violations over all other types of crime (Goode 2008). While the drug policy reform movement liberalized marijuana policy in a piecemeal state by state fashion in the 1970s, during the 1980s, sweeping Congressional legislation changed drug policy in one fell swoop.

In 1989, George H. W. Bush addressed the Nation's network television viewers to announce the strategy that would guide the drug policy of his administration. Using the rhetoric of fear, Bush (1989) called for increasingly invasive policies that moved beyond those of Reagan, policies that reach "into every school, every workplace, involving every family..." After stating that "the greatest domestic threat facing our nation today is drugs," Bush presented his strategy "to make our streets and neighborhoods safe." He proposed:

we more than double federal assistance to state and local law enforcement....enlarge our criminal justice system across the board-at the local, state, and federal levels alike. We need more prisons, more jails , more courts, more prosecutors....We will pursue and enforce international agreements to track drug money to the front men and financiers....And for the drug kingpins, the death penalty. (Bush 1989, as quoted in Trebach and Zeese 1990: 8-10).

In a document that followed closely on the heels of Bush's declaration, the Office of National Drug Control Policy (1989 as quoted in Trebach and Zeese 1990) advocated stiffer penalties for "casual users" because "he is much more willing and

able to proselytize his drug use –by action or example...” To combat such casual use the ONDCP strategy warned, “Expansion does not merely mean more police or more prisons (though it surely requires both). It means enlarging the system as a whole...” To enlarge the system, the strategy noted the 1988 Anti-Drug Abuse Act provided the tool of asset forfeiture. The strategy called for reforming the system of probation and parole to include provisions for drug testing to “coerce offenders to abstain from drugs while integrating them back into the community.” Demonstrating the dichotomizing and out-grouping that had been the cornerstone of punitive prohibition under Anslinger’s FBN, the strategy also advocated that casual users:

...should have their names published in local papers. They should be subject to drivers’ license suspension, employer notification, overnight or weekend detention, eviction from public housing, or forfeiture of the cars they drive while purchasing drugs. (ONDCP as quoted in Trebach and Zeese 1990: 10).

The strategy is silent on the perceived social benefit of decreasing the amount of casual drug use in the U.S., instead it decries the crisis presented by illicit drug use, as if the immorality of pleasure seeking (or trauma-numbing) illicit drug use mandated such an approach on its face.

At the State level, tough on crime policies took off and contributed greatly to the prison boom. Building on the rhetoric of Bush and his ONDCP chief William Bennett, governors, state legislatures and ballot initiatives ushered in new policies that would concentrate the focus of the criminal justice system on the poor and fill state and federal prisons with people of color. Western (2006: 62-66) shows that sentencing guidelines, “mandatory minimum sentences,” “truth in sentencing,” and three strikes laws transformed the operation of the American criminal justice system,

while economic factors, including increasing income stratification and “high unemployment among poor urban blacks,” combined synergistically to fuel the prison boom.” According to Western (2006):

governors and state legislators led the effort to rebuild the penal system, specifying that there is strong statistical correlation between the role of Republican governors and rising incarceration rates.... [c]rime...did not drive the rise in imprisonment directly, but formed the background for a new style of politics and punishment. (P. 79).

Simon (2007) analyzes several key features of “hyper-incarceration” including the repositioning of prosecutors and executives (governors and presidents) as superior to judges regarding discretionary power over sentencing. This discretionary power has been strengthened with respect to three strikes and other forms of sentencing guidelines because the charges prosecutors bring to trial often determine the types of sentences convicted defendants receive. Simon characterizes the position of American prosecutors as peculiar in that they are elected officials and beholden to represent a poorly defined public.

While the politics of the incarceration boom became self-sustaining at the state level during the 1990s, and the prison population grew and became more African-American and Latino, two new fledgling branches of the drug policy reform movement began to take flight. As discussed by social movement theorists from a variety of theoretical backgrounds, the presence of grievances or strains are not sufficient explanations for the formation of new movements (in this case, new branches of movements), but they do play a role (Snow et al. 1986). Harm reduction organizations formed to respond to issues left unaddressed and exacerbated by

punitive prohibition; the spread of HIV and AIDS among injection drug users, barriers to effective treatment, and the demonization of drug users (Erickson et al 1997). Anti-prohibitionist organizations formed to combat the problems created by punitive prohibition, including; the growth of the prison population, asset forfeiture, and mandatory minimum sentencing. In Northern California, a grass roots Medical Marijuana movement arose to provide marijuana to people suffering from AIDS and cancer.

The grassroots origins of harm reduction and medical marijuana defy both the relevance of grievances to Smelser (1963) and collective behavior theorists, and the role of elite benefactors that was so important to resource mobilization theorists (McCarthy and Zald 1977). These branches of the drug policy reform movement were largely activist driven and possible because of locally hospitable political opportunity structures. The anti-prohibition branch of the movements sprang from a shift in framing by a subgroup of movement leaders who sought to move beyond a rights based orientation to cannabis prohibition and embrace a social justice orientation toward all forms of drug prohibition. For Snow and Benford (1992), “Collective action frames not only perform this focusing and punctuating role: they also function simultaneously as modes of attribution and articulation.” Social movements make claims about what is problematic about a given arrangement (attribution) and what should be done to address said problem (articulation). This shift in frames broadened the critique of drug policy reformers and formed new bases

for alliances with constituencies who had been previously silent on drug policy (for example the California NAACP in 2010).

With the election of Clinton in late 1992, many drug policy reformers hoped that the most punitive years of drug prohibition would soon end, but Clinton continued an approach based on punitive prohibition and using law enforcement as the exclusive means to address drug problems. Clinton disappointed reformers by failing to remove a ban on federal funding for needle exchange, using the ONDCP and the Justice Department in an attempt to prevent medical marijuana in California and continuing the policies of the prison boom at the federal level. During the 1990s, marijuana arrest rates rose every year, (a trend that continues in 2012), as “broken windows” policing caught on in cities from New York to Seattle (Beckett and Herbert 2010).

During the 2000s, the trends of rising arrest rates for marijuana violations (90% for possession), a steadily growing prison population would continue. A new drug scare around crystal “meth,” that grossly inflated the epidemiology and destructiveness of the drug’s use, became the drug scare du jour (Anderson 2007). While the number of illicit drug users has declined since the mid-1990s, arrest rates for marijuana continue to rise every year. As with crack cocaine, where the majority of users were white, young African-American and Latino males are grossly over-represented among those arrested and prosecuted for marijuana, despite evidence that whites are more likely to be users. As demonstrated by presidents Clinton, W. Bush and Obama, deviations from the regime of punitive prohibition are allowed in name

only and not in practice, demonstrating the institutionalization of prohibition and the dependence on the regime by government agencies (Reinarman 2011), private interests, and organizations that depend on public and private funding to stave off substantive drug policy liberalization, a subject to which I will return in greater detail in the remaining chapters of this dissertation.

At the international level the U.S. continues to be the chief sponsor and proponent of an international regime of drug prohibition. In 1961 the United Nations ratified the Single Convention on Narcotic Drugs; according to Bullington (2004: 691), “the cornerstone of modern international drug control efforts.” Levine (2003) argues that countries also have domestic (in addition to international treaty obligations and dependency on foreign aid) incentives to adopt drug prohibition. These include increased police and military powers, the building of social solidarity through scapegoating, and uniting political opponents (as with Republicans and Democrats in the U.S.). Levine notes that countries with diverse political systems have adopted drug prohibition. He argues:

Over the course of the 20th century, drug prohibition was supported by liberal prime ministers, moderate monarchs, military strongmen, and Maoists. It was supported by prominent archbishops and radical priests, by nationalist heroes and imperialist puppets, by labour union leaders and sweat shop owners, by socialists, social workers, social scientists, and socialites-by all varieties of politicians, practicing all brands of politics, in all political systems (Levine 2003: 147).

Two more internationally binding treaties were passed by the United Nations in 1971 and 1988; the 1971 Convention on Psychotropic Substances and the 1988 Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic

Substances (Bullington 2004; Levine 2003). By influencing the United Nations, the U.S. has played a dominant role in the administration of international drug control policies and in preventing other nations from deviating from the regime of global prohibition. In some instances (the use of the military to extradite former ally Manuel Noriega on drug trafficking charges and the early days of Plan Colombia) the U.S. has baldly exercised military force. In other instances, as with the militarization of Mexico's drug war and the later stages of Plan Colombia, the U.S. has participated by funding and providing military hardware (the major U.S. export). With other nations the U.S. relies on "soft power" by cajoling foreign leaders who voice support for deviating from the dictates of prohibition (as demonstrated by W. Bush and Obama with leaders from Latin America) and denigrating those who deign to do so (as with Clinton's Drug Czar Barry McCaffrey and drug policy in the Netherlands) (MacCoun and Reuter 2002; Bullington 2004).

Analysis: The Discourse of Prohibition and Affect

Recently scholars from a variety of disciplines have made theoretical inroads that influence sociology and give it new sites for inquiry. The exponents of this new theoretical and empirical focus group their work under the umbrella of "the affective turn." The theoretical tools of the affective turn can provide sociologists with a means to connect culture, collective identity, subject formation and drug prohibition to each other. Work that falls within this field attempts to explain aspects of social life that remain invisible or unaccounted for by traditional sociological methods. Gordon (1997) advances the concept of "haunting" to expose the traditional divide between

social structure and agency as an inadequate basis for the understanding of the complexities of social life where personhood is never simple but always complex and domination often subtle, commonplace and banal. Ahmed (2004) theorizes affect as an economy of signs, where signs attach to some (social and individual) bodies and not others. Through affect, people form allegiances with certain social bodies in opposition to others. Affect is a source of political action and social cohesion. Berlant (1997) explores how texts that circulate in the public sphere lead to invisible forms of domination. For her “politics by caricature” has constitutively harmful effects on those who do not fit into a public political scheme dominated by a private intimate domestic sphere that premised on notions of a white heteronormative nuclear family. Although drug users are the legible objects of policies that fall under the rubric of drug prohibition, parallel to Berlant’s formulation, the privileged subjects of much prohibitionist discourse are fetuses, infants and children.

Haunting

Gordon advances the concept of haunting to bring attention to the elisions of chronological sociological frameworks and to attend to the ways in which social arrangements of the past manifest themselves in the present. Similar to Taussig (1987), she cautions that “ethnographic or sociological representations are also fictions albeit powerful ones that we...experience...as true” (Gordon 1997: 11). Gordon wishes to show how the past resurfaces in the present causing rupture to narratives that seek to establish progressive linear frameworks. Her concept of haunting informs my analysis by providing a tool to understand how public support

for drug policies is created. It also provides answers to how such draconian and repressive prohibitionist legislation could be passed with minimal opposition over the course of a century in a country auspiciously committed to individual freedom.

Characterization of the relationship between U.S. drug prohibition and racism according to any one temporal or causal scheme is a difficult task. Were drug laws passed in response to racism? Did moral entrepreneurs merely harness the currents of racism to promote their own self-interested agenda? Were “drug scares” the only form of drug knowledge available to many and therefore irrefutably “true” for many? The drug war discourse places drug users into exoticized and demonized categories, that subdivide their identities and render them both one-dimensional and outside the bounds of conventional society. This makes them objects of fear and disgust, emotions that discourage compassion and encourage retribution.

It is useful to view the draconian policies that characterize drug prohibition as animated by ghosts of more overt racist laws that codified race in the U.S. from the 1870s through the 1910s. This helps to explain how such laws were supported and their function in a society dominated by commitments to freedom, liberalism, and free-market capitalism. Using Gordon’s concept of haunting, I theorize the relationship between drug prohibition and racism as an example of haunting. The racism that energized earlier drug laws remains sedimented within current drug laws. Drug prohibition represents a re-surfacing of such laws in a legal context where overt racism is no longer as acceptable. This logic applies to both laws that occur in the beginning of drug prohibition, the outlawing of smoking opium, or more recent

examples of drug prohibition, such as the discrepancy that existed from 1986 to 2010 that equated possession of 5 grams of crack cocaine with 500 grams of powder cocaine (Reinarman and Levine 1997), or the vast disparities in marijuana possession arrest rates between whites, blacks, and Latinos (Levine and Small 2009).

Gordon (1997: 201) shows that subjects thought to have existed only in the past (African American slaves is one example given) resurface through haunting and that “the ghostly phantom objects and subjects of modernity have a determining agency on the ones they are haunting, which is everyone...” For Gordon (1997: 202) “worldly power is making itself felt in our lives, even if that feeling is vague.” With drug prohibition, the subjects of America’s racist past resurface and haunt the present as the objects of prohibitionist discourse and the targets of prohibition-based police practices.

Wacquant (2001) incorporates a notion similar to haunting into his theorization of the expansion of the U.S. prison system. For Wacquant (2001) prohibitionist policies pursued under the “war on drugs” are the single biggest determinants of the rapidly increasing prison population. He situates the U.S. prison system historically; “in the full lineage of institutions which, at each epoch, have carried out the work of race making by drawing and enforcing the peculiar ‘color line’ that cleaves American society asunder.” The institutions of slavery, Jim Crow, and the northern ghetto preceded “Black hyper-incarceration” in this race making function (Wacquant 2001: 96). During the three earlier epochs, race-making institutions sought to extract labor while maintaining hierarchical social distance

between blacks and whites. Wacquant contextualizes the prison system within the political and economic context of post-Fordist deregulated capitalism in the U.S. He stresses the function of prisons in housing African American men whose labor is no longer desired by global capital in the U.S.

Various authors have highlighted the salience of the “war on drugs” and its use of mandatory minimum sentencing in the expansion of U.S. prisons and accelerating incarceration rates. The U.S. now features the highest incarceration rate in the world (Western 2006). In *Malign Neglect*, Tonry (1993) argues that U.S. crime and drug policies have had a discriminatory impact on African-Americans and that these policies are largely responsible for the prison boom. He states that “War on Drugs” has “forseeably and unnecessarily blighted the lives of hundreds of thousands of young disadvantaged black Americans and undermined decades of effort to improve the life chances of the urban black underclass” (Tonry 1995: 82).

Racial disparities inherent in mass imprisonment can also be seen as the cumulative effects of a pattern of discriminatory criminal justice practice at every level of the criminal justice system exacerbated by a grim economic context. “Ghosts” from the Jim Crow era haunt both police enforcement practices, and an economic context bereft of opportunities. According to Brown et al. (2003):

Small disadvantages at each successive stage in the justice process result in big disparities over the long run. Exacerbating this is the larger pattern of cumulative social disinvestment in black communities...[h]igh unemployment, few effective public social programs and the resulting pressure on black families all work to the disadvantage of youth in the justice system. (P. 141).

David Garland analyzes how penal strategies in the U.S. changed from the late 1960s to 2000. Although he doesn't use the concept of ghosting, it is easy to apply the idea to his analysis. He posits a shift from a strategy of "penal welfarism" to "punitive segregation." Under penal welfarism (roughly from the 1890s to the 1970s) the operation of the prisons was conceived of as having a rehabilitative function. Prisoners or "offenders" were seen as citizens whose interests were consonant with those of the larger society. Under "punitive segregation" criminals are seen as essentially wicked people who must be removed from society to protect the public safety. In this dichotomizing view, the rights of victims are opposed to those of criminals, and judges are derided as advocates of criminals. Garland's division maps neatly onto the resurgence of the "War on Drugs" in the 1980s, and the characterization of drug users as enemy deviants under the rhetoric of punitive prohibition espoused so forcefully by Reagan and Bush. Furthermore, to extend Wacquant's analysis, as actual segregation of African-Americans became illegal, the rise of "punitive segregation" took its place. These examples from the criminological literature highlight the empirical work that demonstrates the racially discriminatory consequences of drug laws that are auspiciously race neutral. Although U.S. drug laws make no mention of race, ethnic minorities are overwhelmingly arrested for drug violations, which provides further evidence of haunting.

As demonstrated by the history of the laws that outlawed smoking opium, cocaine, alcohol, and cannabis, early claims makers relied on race and racism to marshal support for drug control efforts. As Duster (1970) points out, often what is

problematic about drug use to proponents of drug prohibition is not related to a drug's pharmacological properties, but rather to which groups use (or are thought to use) certain drugs. More recently, the popular news media constructed crack cocaine as a "demon drug" and presented its users as subhuman. This view of crack use facilitated the passage of draconian and discriminatory legislation auspiciously targeted toward reducing the use of the drug (Reinarman and Levine 1997). Similar to the earlier drugs, crack users were (initially) disproportionately non-white. Drug laws that arose from the crack panic were an effective means for the dominant classes to control this threatening ethnic minority group. The crack panic also had other functions, according to Reinarman and Levine (1989), "The spread of cocaine and crack....was a godsend to the Right: they used it as an ideological fig leaf to place over unsightly urban ills which had increased markedly under the Reagan administration."

In the 1980s, 1990s and 2000s drug control has been overwhelmingly directed at African-Americans and more recently Latinos. Drug prohibitions were passed when more overtly racist laws were no longer tenable, and groups who were no longer subject to labor discipline became vulnerable to laws that targeted their lifestyle or cultural practices. Although whites are more likely to use drugs than other ethnicities, law enforcement agencies continue to overwhelmingly target people of color with sanctions. Through differential enforcement, drug laws are ghosted by law enforcement practices from earlier eras, including the Jim Crow south, and the Civil Rights movement when local police used their legally granted and socially accepted powers to persecute black people.

Emotions, Politics, and the Discourse of Prohibition

The work of Ahmed and Berlant provides depth for an account of U.S. drug prohibition by describing the mechanisms that allow emotions such as disgust and fear to produce and condition social bodies and to mobilize political action. Ahmed (2004: 191) contends that emotions are important in producing the categories of social life because they “work...through signs and on bodies to materialize the surfaces and boundaries that are lived as worlds.” Ahmed’s formulation of an affective economy of signs is most applicable to an analysis of drug policy when she focuses on the emotions fear and disgust. Berlant contends that affect does work to maintain political, social and economic inequalities by shaping the boundaries of acceptable citizenship according to politics by caricature. Politics by caricature have played a lead role in supporting drug prohibition and Berlant’s analysis of public policy based on private concerns extends fluidly to an analysis of drug prohibition, where the fears of parents and paternalistic impulses of the state animate efforts to rid the U.S. of illicit drugs entirely.

For Ahmed (2005: 4), affect is an important and understudied object of inquiry because “emotions operate to ‘make’ and ‘shape’ bodies as forms of action, which also involve orientations towards others. To analyze what “emotions do,” Ahmed blends psychoanalysis with Marx’s formulation that capital generates more capital through circulation (M-C-M’), by arguing that affect generates more affect through the circulation of signs. She conceives emotions as both connected to bodily sensations and to “shaping the surfaces” of individual and collective bodies, but

departs significantly from psychoanalysis in arguing that the subject is not the source of affect but merely “one nodal point in the economy [of signs], rather than its origin and destination” (2005: 46). Ahmed contends that affect exists outside the subject, and that it performs the work of attaching the subject to collective bodies. She describes how affect works through the emotions of pain, hate, fear, disgust, and shame and considers the work that affect can do to “open up the possibility of restoration, repair, healing and recovery” within a national context that would make a place for subject formations that had been previously shut out from participating in public social life.

Ahmed is concerned with how signs attach themselves to bodies (both social bodies and individual bodies) in an economy of affect. For her, affect does not reside within a given subject, but conditions the surfaces of collective bodies. Either bodies accumulate signs through a process of “sticking,” or they allow signs to slide off of them or move sideways. In addition to analyzing the work emotions do, Ahmed is concerned with how emotions cause signs to stick to some (collective) bodies and not others. Through the work of conditioning the surfaces of bodies to be either sticky or slippery, emotions also cause some bodies to adhere in opposition to other bodies.

For Berlant (1997), from the late 1960s on, politics in the U.S. has been organized according to the private concerns of an idealized white, heteronormative, nuclear family. She argues, “the political public sphere has become an intimate public sphere” (Berlant 1997:4). According to these politics, “the dominant idea marketed by patriotic traditionalists is of a core nation whose survival depends on

personal acts and identities performed in the intimate domains of the quotidian” (Berlant 1997: 4). These personal acts primarily concern the raising of children, and one can assume abstinence from all forms of illicit drug use. As with the discourse of drug prohibition, children and fetuses are the ideal subjects of the conservative sexual politics examined by Berlant. Although she does not consider drug use explicitly, it is not difficult to extend her analysis of excluded subaltern identities to drug users.

Reinarman and Levine’s (1997) concept of “drug scares” also highlights the salience of fear, aversion, and plague to the discourse of prohibition. “Drug scares” frequently use the language of plague and disease to generate fear and garner political support for repressive prohibitionist policies. Throughout the latter half of the twentieth century, prohibitionists have used the discourse of drug scares to create fear about the use of various drugs; from LSD in the 1960s, to cocaine and crack in the 1980s, to the current drug scare surrounding methamphetamine use (Reinarman and Levine 1997; Armstrong 2007).

Fear

Fear is a central emotion to both Ahmed’s formulation of collective affect and to the mobilization of support for prohibitionist drug policies. Ahmed (2004: 64) argues that fear is often based on cannibalistic fantasies, and that “fear works by establishing the other as fearsome [by threatening] to take the self ...[and] one’s very life.” For Ahmed, fear of the other works because members of privileged groups (whites imagined to be citizens of the nation) fear that they will be obliterated or subsumed (cannibalistically) into the body of the feared other. She extends Beck’s

(1992) position that group cohesion “is based on insecurity” and argues that “fear works to align bodies with and against others” (Ahmed 2004: 72). Fear of the other is a recurring theme in prohibitionist discourse. Through this emotion, prohibitionist discourse coerces support for prohibitionist policies from non-drug using subjects who wish to view themselves in opposition to drug using others. Often this fear is elaborated according to the familiar trope of “miscegenation” or sexual contact between idealized white women and seductive drug-using others.

Reports of Chinese opium smoking in the popular press often played on the trope of inter-ethnic sexual relations or “miscegenation.” A 1922 book titled, *The Black Candle*, warned “Canadians about the dangers of drug use by black men using cocaine and the Oriental opium smoker seeking to seduce white women and bring down the ‘bright-browed races of the world’” (Hathaway and Erickson 2003: 467). In the late nineteenth century, editorial cartoons that featured racist caricatures of Chinese men with white women were common in papers such as the San Francisco Chronicle (White 1979). In 1910, Hamilton Wright, a driving force in the institution of drug prohibition in the US, commented to Congress, “one of the most unfortunate phases of smoking opium in this country is the large number of women who have become involved and were living as common law wives or cohabititating with Chinese in the Chinatowns of our various cities” (Wright 1910, as quoted in Musto 1987: 43). According to White (1979: 2), “As with prohibitions which would follow, people's attitudes toward a specific drug (opium) became inseparable from their

feelings about that group of people (Chinese) with which the drug's use was associated.”

Prohibitionist discourse employing fear of the others’ sexuality tethered to fear of drugs surfaced once again in the southern U.S. during the 1910s. Similar to efforts geared toward regulating the smoking of opium, dominant constructions of cocaine use featured sexual overtones. In 1910, Hamilton Wright stated “It has been authoritatively stated that cocaine is often the direct incentive to the crime of rape by the Negroes of the South and other sections of the country” (as quoted in White 1979:

3). A 1914 article by Edward Huntington Williams claimed:

...once the Negro has reached the stage of being a 'dope taker'. . . he is a constant menace to his community until he is eliminated . . . Sexual desires are increased and perverted, peaceful Negroes become quarrelsome, and timid Negroes develop a degree of 'Dutch courage' that is sometimes almost incredible. . In the language of the police officer, 'The cocaine nigger is sure hard to kill' - a fact that has been demonstrated so often that many of these officers in the South have increased the caliber of their guns for the express purpose of 'stopping' the cocaine fiend when he runs amuck.” (as quoted in White 1979).

Proponents of narcotics control used such accounts to insure the passage of the Harrison Narcotics Act by Congress in 1914. Before it became targeted for national prohibition, alcohol was also cast as dangerous by allegedly causing African-American males to sexually assault white women. In such racist formulations, white men were purported to be insulated from this behavior because of their alleged superiority (Musto 1987). Although this view is biologically preposterous by today’s standards, social conditions still cause forms of drug use engaged in by wealthy

whites, such as illegal prescription drug use by Rush Limbaugh, to retain the mantle of acceptability.

In addition to showing how fear works to cause white bodies to cohere in opposition to putatively drug-enhanced superhuman black bodies, this text can also be read as an example of what Taussig (1987) describes as the projection of magical powers and fearsome practices onto feared others. For Taussig, hegemony in the Putamayo rubber boom operated through the fantasies that Indians, whites and blacks projected onto one another. He cites several early anthropologists (Malinowski, Tyler) who argue that the dominant culture always imputes magical capabilities to the groups they wish to dominate. This happens with U.S. drug prohibition repeatedly. In this instance, a specific drug (cocaine) is alleged to cause a specific group of people (African-Americans) to behave in a dangerous and threatening way. In this instance fear of a drug is combined with fear of a non-white ethnic group. In other instances, fear of cannabis is connected to Mexican immigrants and alleged to produce homicidal rage in the “reefer madness” of the 1930s (Bonnie and Whitebread 1974).

In the politics of the 1980s, Presidents Reagan and Bush I grouped a diffuse category of substances and their putative milieu (“inner-city crime and violence”) under the sign of “drugs” to inspire fear and social distance. In the televised announcement announcing his drug control strategy, recently elected president Bush, invoked fear and gravity. He began with a stern reminder of the eminent danger posed by drugs (specifically crack cocaine):

Good evening. This is the first time since taking the oath of office that I felt an issue was so important that it warranted talking directly with you, the American people. All of us agree that the gravest domestic threat facing our nation today is drugs. (Bush 1989, as quoted in Trebach and Zeese 1990).

As shown above, Bush continued by advocating policies that greatly expanded the powers of the state to police, (powers at odds with the protection of individual rights), all in the name of protecting and making the populace “safe.”

Disgust is another important emotion for Ahmed. Disgust is also central to prohibitionist discourse. Ahmed borrows from Butler’s performative theory of reiterative discourse to analyze the “sticky” emotion of disgust. According to Butler, regulative discursive regimes gain their power to produce effects through reiteration. Ahmed argues that through “public speech act[s]...disgust works to align the individual with the collective” in opposition to the other whom is the object of disgust. As Butler ([1990] 2005) notes, subjects can only constitute themselves in opposition to some other subject. When applied to drug use, prohibitionist discourse aligns non-drug using subjects with one another in opposition to the disgusting drug using other. Ahmed’s work shows how the emotions of fear and disgust also work to mobilize coherence among members of social collectives in opposition to drug using others. Affect captures the way that prohibitionist discourse generates political support among cultural conservatives, anxious parents, and other supporters of prohibition by distancing themselves from drug using others.

The drug user is the object of much affect-generating signification. This form of affect (through disgust and anger) shapes the surfaces off social bodies, simultaneously causing cohesion among some and withdrawal from others. Ahmed’s

(2004: 99) discussion of the “mediation of the events” of September 11, is applicable to the affective stickiness of drug users. She argues that the images of the twin towers falling were “saturated” with affect and that these images produced public speech acts of “they’re disgusting.” For Ahmed (2004: 99), “they slips between sticky signifiers: terrorists, Middle-Eastern, Muslim and should be expelled, or vomited out of the nation, the civil world.” Drug users also represent a body with an extra “sticky” surface. Such affect laden signs as “dope fiend,” “junkie,” “speed freak,” “crackhead,” “burnout,” “pothead,” and “stoner” attach easily to the both collective and individual bodies of drug users. These epithets are complimented by links to sex workers, and HIV/AIDS. In the discourse of academic drug studies, the preferred terms that fragment and under-describe the subjectivities of drug-users are “injection drug user” (shortened to IDU) and “drug addict.”

The language of plague and disease also works to stick the emotions of fear and disgust to the bodies of drug users. Through repeated use of this language politicians and other policy actors have garnered support for prohibitionist policies. Frequently drug use is discussed in medical terms, including; epidemic, plague, and menace. The idea of drug use as disease is evident in the writing of the early prohibitionist Richmond P. Hobson. Hobson, a former naval officer and U.S. senator from Alabama, was a prominent “Dry” during the push for constitutional prohibition (Okrent 2010). In the late 1920s, he trained his considerable gift for dramatic diction toward increasing support for narcotic prohibition. In a 1928 pamphlet titled “Mankind’s Greatest Affliction and Gravest Menace,” Hobson warned:

First, for a period after taking the drug he experiences an ‘exaltation of the ego,’ looks upon himself as a hero. Bent upon getting money to buy his drug, he will dare anything, thinks he can accomplish anything. The daylight holdups, robberies, murders committed by these young criminal heroin addicts eclipse in daring all the exploits of Jesse James and his gang. This can also be said of cocaine addicts. The heroin addict has a mania to bring everybody else into addiction. ... He thinks, he dreams, he plots to bring all those whom he contacts into addiction. All addiction tends to spread. Heroin addiction can be likened to a contagion. Suppose it were announced that there were more than a million lepers among our people. ... Yet drug addiction is far more incurable than leprosy, far more tragic to its victims, and is spreading like a moral and physical scourge.

In 1989, William Bennett’s warning that casual drug users posed the gravest danger by “proselytizing” their drug use, echoed Hobson’s dramatic warning.

In addition to reliance on the rhetoric of fear, prohibitionist discourse is often paternalistic. It frequently invokes the image of children in need of shielding and protection from the corrupting influence of psychoactive drugs. According to this strain of prohibitionist discourse, drug dealers are a potent threat to the innocence of children. A campy 1970s public service announcement portrayed this myth by depicting a smooth voiced drug dealer, replete with raincoat and aviator sunglasses, visiting a playground to offer an assortment of illicit drugs to schoolchildren. A correlate is the idea that if drug prohibition were to cease, drug dealers would have unfettered access to women and children, with a drastic increase in drug consumption by these groups.

According to Berlant’s formulation, the child becomes the ideal subject in marshalling support for drug prohibition. Similarly, in the late 1980s, the subject of the “crack baby” was a prominent figure in prohibitionist discourse. Such babies were alleged to be addicted to crack, unhealthy, and in danger of not developing

properly. This subject was deployed to garner support for repressive policies and also had the effect of demonizing African-American women by de-legitimizing them as acceptable mothers (Siegel 1997). Such portrayals generate the affect-laden emotion of disgust, which marshals support for prohibitionist policies. As citizens become disgusted with the figure of the crack-addicted mother, they wish to punish such wanton perfidy with the full brunt of the law. Later research demonstrated that the crack baby was the creature of myth, and not borne out by empirical evidence (Reinarman and Levine 2004).

A *Newsweek* article, entitled “Kids and Cocaine: An Epidemic Strikes Middle America,” features all three rhetorical aspects of prohibitionist discourse noted above; the plague (or disease) metaphor, the threat to children, and the intent to generate fear. The article presents truncated and de-contextualized data to support incendiary claims about cocaine. Orcutt and Turner (2003) describe how a senior writer and a graphic artist at *Newsweek* distorted empirical trend data from a journal article published by researchers at the University of Michigan’s Institute for Social Resource. The *Newsweek* article uses lifetime prevalence numbers (the highest prevalence figures available from their data source), then censor and truncate their data to create a deceitful graph to support the claim that cocaine use doubled from 1976 to 1986. The use of scientific data has become increasingly contested as reformers and prohibitionists marshal competing research findings and interpretations of findings to support their arguments.

The threat illicit drugs putatively pose to children was also frequently cited by Harry Anslinger, the founder and thirty-year director of the DEA's predecessor the Federal Bureau of Narcotics. Anslinger published numerous articles detailing this threat, including the famously titled "Marijuana: Assassin of Youth" in 1937. This article featured lurid descriptions of youth committing fantastically violent crimes while under the influence of marijuana, including the story of a teenager in Florida who murdered his entire family (Goode 2005). These discursive strategies anchored themselves to new subjects and made objects out of them. The newer objects of prohibitionist discourse were the vulnerable child, the nervous parent, the sober upstanding citizen and the effective, drug-free worker. Instances of children being mobilized to support drug prohibition have also occurred more recently. On March 16, 2006, agents of the Drug Enforcement Agency (DEA) raided medical marijuana candy factories in Oakland and Emeryville, California. They defended their tactics by claiming that the medicinal candy was being intentionally marketed to children. A DEA agent stated, "...even though there may be claims that these weren't meant for kids, the packaging may suggest otherwise" (Lee 2006).

A correlate of shielding children from the evils of drugs extends to shielding children from conflicting signals regarding the necessity of prohibition. With the advent and growing prominence of the drug policy reform movement and the vocalization of the movement's critique, a newer theme in prohibitionist discourse is the idea that deviations from prohibition "send the wrong message" (primarily to children and teenagers). During the Proposition 215 campaign, drug policy actors

frequently argued that allowing medical marijuana to exist would “send the wrong message” to youth. In other words by sending the message that cannabis may have therapeutic effects, the existence of medical marijuana would threaten the portrayal of marijuana as dangerous and harmful (Chapkis and Webb 2008).

Politicians opposed to needle exchange programs and other aspects of harm reduction have frequently relied on the rhetoric of “sending the wrong message” to frame their opposition. As a presidential candidate, Governor George W. Bush authored the following response to the AIDS Foundation of Chicago in the fall of 2000:

I do not favor needle exchange programs and other so-called “harm reduction” strategies to combat drug use. I support a comprehensive mix of prevention, education, treatment, law enforcement, and supply interdiction to curb drug use and promote a healthy, drug-free America, not misguided efforts to weaken drug laws. Drug use in America, especially among children, has increased dramatically under the Clinton-Gore Administration, and needle exchange programs signal nothing but abdication, that these dangers are here to stay. Children deserve a clear, unmixed message that there are right choices in life and wrong choices in life, that we are all responsible for our actions, and that using drugs will destroy your life. America needs a President who will aim not just for risk reduction, but for risk elimination that offers people hope and recovery, not a dead-end approach that offers despair and addiction (Bush 2000).

Politicians frequently offer the “wrong message” critique to oppose the sensible yet politically unpopular (because it has been so thoroughly demonized) practice of needle exchange (Whitman 1998; DiGaetano 2002).

Prohibition has privileged access to the means of representation. From Richmond Hobson, to Harry Anslinger, to Bush, and Bennett the rhetoric and mobilization of fear, disgust, and parental anxiety have been represented through ever

evolving media technologies. In the private sphere these include newspapers, pamphlets, magazines, radio, film, network television and cable television. In the public sphere the means of representation bearing the imprimatur of the state range from legislative and juridical language, public service announcements on the radio and television, and drug education programs such as Drug Abuse Resistance Education (D.A.R.E.). Various claims-makers use these varied technologies to create and enforce the “regime of truth” status of drug prohibition.

The frequently publicized story of University of Maryland basketball star Len Bias is one example of the media representing the discourse of prohibition. Len Bias died of cardiac arrest after ingesting cocaine on June 19, 1986. His untimely death is an example of a “classic drug ‘horror story’ (Orcutt and Turner 2003:37).” The story of Bias was repeatedly recounted to illustrate that using cocaine only once could be lethal. Bias’s death initiated a huge upswing in media coverage of illicit drug use, from less than one percent in the beginning of 1986 to over 5% of “network television, news magazines and major newspapers (Orcutt and Turner 2003: 37)” in the summer months of that year. That Bias’s case was repeatedly discussed in the news media and remains a household name to this day, illustrates how the discourse of prohibition has privileged access to the means of (mass) representation. In the wake of the coverage of Bias’s death, survey data showed that drugs had become a major concern for Americans (Beckett 2003). As illustrated by a 2006 case in Wyoming, alternate discourses of drug policy are routinely denied access to the means of representation; their elision leaving the dominance of prohibitionist

discourses unassailable and intact. A radio station in Wyoming recently declined to air two advertisements promoting medical marijuana (Associated Press 2006).

Conclusion

By telling about the invisible and often understudied aspects of social life that have structured and contextualized drug prohibition, affective approaches to social inquiry can more accurately evoke social life in order to suggest why the injustices of U.S. drug policy persist and how they can be addressed. By sticking the emotions of fear, disgust, and anxiety to the social body of drug users, prohibitionists provide otherwise uninterested parties with a visceral stake in maintaining the regime of prohibition. The staying power of a politics based on fear, is both subject to challenge and in need of constant updating. These qualities imperil the longevity of the discourse and practice of punitive prohibition.

In many ways the discourse and practice of drug prohibition (primarily by the drug control industrial complex) helps to produce and also reflects the official national mood. The discourse reflects who the official enemies of the state (designated by which policies are enacted) are at a given time. During the 1880s, as anti-Chinese sentiment swept through the West, anti-opium den rhetoric appeared and lawmakers banned opium and then Chinese immigrants themselves. As the Anti-Saloon League arm of the temperance movement made its final push for a constitutional amendment, virulent anti-German rhetoric intensified and German-Americans became the targets of violent mobs as Americans contemplated their entrance into World War I. During the labor surplus of the 1930s, Mexican-

American cannabis users became the enemy. In the 1950s, Anslinger and the FBN depicted heroin in anti-Communist terms, alleging that most heroin came from “Red China” (a patently absurd claim). In the 1960s, the LSD soaked counterculture became the national boogeyman, and during the Reagan and Bush years, crack smoking black men from the “inner cities” were whom Americans should fear. In the late 1990s, rural “meth” smoking identity thieving zombies arise. In a farcical turn, George W. Bush’s drug czar warned that smoking marijuana supported terrorism in the post-9/11 fervor. Currently, the national is boogeyman is less legible and more contested, but Americans are told that marijuana threatens our mental health and the ability of our society to function properly (Reinarman 2011).

The dominance of prohibitionists in representing their discourse is changing as drug reform organizations are able to represent reformist discourse on cable news programs, independent radio programs (broadcast and “streamed” online), and in newspaper articles. Increasingly, drug policy reform organizations, researchers, and drug users are able to introduce reformist discourse into the national conversation via the Internet, film, music, academic publications, and popular literature. The popular news media is slowly becoming a site where reformers challenge the dominant discourse of prohibition. All three branches or streams of the drug policy reform movement challenge the discourse of punitive prohibition according to different strategies. The philosophically integrated approach of harm integrated presents a cogent challenge to punitive prohibition. Although harm reduction is not well represented in the media or in popular culture, the spread of harm reduction praxis

presents a serious challenge to the logic of punitive prohibition. Medical marijuana proponents appropriate a discourse premised on the therapeutic benefits of cannabis, which inherently challenges the image of marijuana as exceptionally harmful in prohibitionist discourse. The anti-prohibition branch of the movement uses a social justice frame to challenge punitive prohibition.

In order to create a more expansive and effective oppositional discourse to drug prohibition it will be necessary for reformers to create more inclusive categories of subjects, including responsible recreational drug users and the families of those most harmed by prohibition based policies. Those opposed to drug prohibition should be able to form coalitions across these groups who have similar interests. For discourse opposed to the current system of drug prohibition to increase in volume it will be necessary for it to have increased access to the means of representation. The movement can also benefit greatly from integrating its various discourses into a more unified and concerted attack on the logic undergirding punitive prohibition.

CHAPTER II: THREE BRANCHES OF REFORM, THE DRUG POLICY REFORM MOVEMENT FROM 1964 TO 2012

In this chapter, I seek to discover the origins of the drug policy reform movement, to trace its history and examine the role of social movement organizations in the movement. When I began this research project, I hypothesized that drug policy reform organizations played the key role in the successful implementation of drug policy reform modalities. I viewed organizations as the primary actors in changing drug policies through lobbying and ballot initiatives. In reality, the relationship between drug policy organizations and the implementation of drug policy reform on the ground is much more complicated. This chapter explores how the drug policy reform movement (which is larger and more transitory than the organizations that compose its most readily identifiable parts) relates to the actual adoption of new, more liberal, drug policies.

The guiding questions that I seek to answer are; how did the drug policy reform movement emerge and what role did academics play, how has the drug policy reform movement changed over the past four decades, which organizations have played a prominent role in the movement, and what campaigns and framing strategies have been successful and unsuccessful. After introducing the theoretical lenses I will use throughout the chapter, I examine the movement's history in the chapter's three subsequent sections. In the first section, I look at the intellectual lineage of the movement. In the second section, I seek to answer questions about the first branch of the movement, the marijuana law reform movement. Several questions guide my exploration; what led to the marijuana reform movement's genesis and early success

in the 1970s, its dormancy in the 1980s, and its resurgence during the 1990s? In section three I explore the origins and growth of the two most recent branches of the drug policy reform movement; the harm reduction and anti-prohibitionist streams of the movement.

The drug policy reform movement incorporates a variety of organizational forms and modes of participation to change drug policy in the U.S. Significantly the two reforms of medical marijuana and needle exchange have shaped the policy environment by spreading from the “field” (in Bourdieu’s sense of the term) of political activity to the “fields” of commerce and public health provision, a theoretical point I will revisit in depth in chapter six. Organizations and activists use a combination of politics, advocacy, protest and civil disobedience to accomplish changes in drug policy. Activists slowly institute change on the ground through protracted interactions with the legal system, state and local governments, and law enforcement agencies (Bock 2000; Sherman and Purchase 2001). The drug policy reform movement has been most effective at significantly altering drug policy in the realm of medical marijuana. In addition to entering the field of commercial activity, the “social fact” or phenomenon of medical marijuana has profoundly affected cultural representations of cannabis and the future momentum of both medical and non-medical marijuana reform efforts.

The context for my case study of medical marijuana is the wider drug policy reform movement. Providing context is necessary to my study of the emergence of medical marijuana because I wish to examine what factors contributed to the rise of

medical marijuana, and how its emergence was related to the wider drug policy reform movement. According to National Organization for the Reform of Marijuana Laws (NORML) founder Keith Stroup (personal communication 2010), medical marijuana was built on the earlier efforts of the marijuana law reform movement. I will provide a focused analysis of the role of specific social movement organizations in the development of medical marijuana in California in chapter four.

To construct an historical narrative of the drug policy reform movement, I interviewed movement organization leaders, explored movement websites and literature, and extensively researched academic and popular literature on the various branches of the movement. To present the viewpoint of movement leaders and actors, I present interview data, excerpts from movement literature and quotes from news sources when appropriate. Although I applied insights from resource mobilization and political process theories to guide my historical narrative of the drug policy reform movement, my overall orientation was inductive (i.e. reasoning upward from the particular findings of my case study). While organizations have played an important role in the movement to institute less punitive drug policies, and they have left a considerable record of their efforts, my research has shown that movement organizations are not the key actors in instituting drug policy reform on the ground. A focus on social movement organizations underemphasizes the importance of what I term drug policy reform modalities. Modalities include, needle exchange programs, safe injection facilities, and medical cannabis dispensaries. While these modalities constitute organizations, they are primarily physical sites of action (or sets of

practices), which differ from social movement organizations that work to influence political and cultural activity through lobbying, advocacy, and outreach. I attempt to correct this oversight when I present the history of the harm reduction movement.

Theoretical Lenses

My inductive historical analysis of the drug policy reform movement is informed by several strains of social movement theory. I rely on an historical narrative technique, several concepts, from resource mobilization theory, and insights from political process theory. From resource mobilization theory I use the concepts “social movement organization” (SMO) and “social movement industry” (SMI), and a focus on both financial and intellectual research. Borrowing from political process theory, I emphasize the context of movement emergence and the role of issue framing in movement outcomes.

The resource mobilization perspective was the dominant scholarly lens for looking at the genesis and success of social movements in the 1960s and 1970s. For its chief exponents, generalized beliefs about unfavorable arrangements are neither necessary nor sufficient causes of social movement activity. While Smelser’s (1963) collective behavior theory emphasized these elements, McCarthy and Zald (1977) argue that there are almost always enough grievances present in a given society and that effective organization and elite support are far more predictive of movement emergence.

McCarthy and Zald (1977) define a social movement as a “set of opinions and beliefs in a population that represents preferences for changing some elements of the

social structure and or reward distribution in a society.” They are much more specific about, social movement organizations (SMOs), which they define as “a complex, or formal, organization which identifies its goals with the preferences of a social movement or a countermovement and attempts to implement those goals” (1218). Resources can include “legitimacy, money, facilities and labor” (1220). By theorizing social movement organizations as distinct from social movements, they view social movements as “never fully mobilized” phenomena and note that a given social movement may spawn multiple social movement organizations. The SMI consists of “all SMOs that have as their goal the attainment of the broadest preferences of a social movement” (1219). The social movement industry of drug policy reform has changed dramatically over the four decade long history of the movement. My analysis tests whether these concepts adequately explain the diversification of social movement organizations that occurs with the drug policy reform movement (a social movement industry) in the 1980s.

McCarthy and Zald (1977) argue that the resource mobilization perspective offers a corrective to the social psychology of earlier approaches to social movements (LeBon 1896, Smelser 1963, Blumer 1971) and reflects the concerns of “social movement leaders and practical theorists” (1213). According to McCarthy and Zald (1977: 1213), resource mobilization:

emphasizes both societal support and constraint of social movement phenomena. It examines the variety of resources that must be mobilized, the linkages of social movements to other groups, the dependence of movements upon external support for success and the tactics used by authorities to control or incorporate movements. *The new approach depends more upon political*

sociological and economic theories than upon the social psychology of collective behavior. (Emphasis added).

My analysis of the DPRM (in this chapter) and the successful implementation of medical marijuana (in chapters four and five) will explore McCarthy and Zald's focus on how movements relate to both "external support" and the "authorities."

Resource mobilization theory privileges the role of elite benefactors by dividing movement actors according to their provision of resources and their relations to SMOs. McAdam (1982) argues that Resource Mobilization theorists inflate the importance of elite benefactors, positing that the relationship between insurgents and elite benefactors comes with costs to the integrity of insurgent goals, an insight that I will revisit below. I will return to these theoretical insights in greater detail later in this chapter.

A distinction in funding sources also maps on to a distinction in forms that organizations take. Organizations that largely rely on one funding source or a few large funders are more likely to be organized as professionally staffed advocacy organizations, whereas those that rely on diverse sources are more likely to be organized as membership based organizations. Walker, McCarthy and Baumgartner (2011) analyze whether a rise in the number of professionally staffed organizations (which they term "nonmembership advocacy organizations" or NMAOs) is related to a decrease in "civic engagement," conceptualized as the presence of "membership advocacy organizations" or MAOs. According to Walker et al. (2011: 1284):

...[A]mong all organizations in three populations - peace, women's issues, and human rights - NMAOs have not displaced MAOs. In particular, the authors find that MAO density shapes NMAO founding, as membership

groups provide a base for professional advocacy. These findings challenge the notion that U.S. civic life has undergone a systemic transformation away from organizational forms that promote civic engagement.

The important distinction that these authors make with regard to organizational form, funding sources and mass participation provides several hypotheses to test about the drug policy reform movement.

Political process theory was the dominant orientation to social movements from the late 1970s until the late 1990s, and its concepts remain prominent concerns in the sociology of social movements (Crossley 2002). Political process theorists ask why does movement activity arise in certain places and at certain times? The theory examines both durable and shifting features of the state and the historical context of movement emergence. The perspective holds that broad economic, political, and cultural changes alter the political structure and the ability of powerless groups to wield power (Tilly 1978; McAdam 1982). Early political process theorists (Eisinger 1973; Tilly 1978) emphasize the structural determinants of movement genesis, while underemphasizing the role of agency, activism, and social relationships. I seek to address this shortcoming by accounting for the role of activists through constructing a social history of the drug policy reform movement.

More sophisticated versions of political process theory (e.g. Tarrow 1998) are both dialectical and dynamic in noting that movement activity (and the activities of counter movements) often alter future “political opportunity structures” for existent movements, the state, and counter movements (Gale 1986). This historically astute insight informs my narration of the drug policy reform movement’s social history.

Although social movement scholars have studied a variety of attributes of social movements, according to McAdam, McCarthy and Zald (1996: 7), “virtually all theories in the field are first and foremost, theories of movement emergence.” They argue, “understanding the mix of factors that give rise to a movement is the oldest, and arguably the most important question in the field” (McAdam et al. 1996).

In the late 1970s and 1980s, political process theorists formulated three concepts that would become central to movement analysis, repertoires of action, issue framing and cycles of protest. For my analysis of the drug policy reform movement, the concept of “issue framing” is especially insightful. Framing is imported directly from the work of sociologist Erving Goffman (1974). It rests on a social constructionist ontology, which holds that people do not assess their social worlds in a vacuum, but rather through culturally determined frames that cause them to interpret the world according to learned and shared orientations. In short, the frames through which people view the world affect what they see. For Snow and Benford (1992: 137), “Collective action frames not only perform this focusing and punctuating role: they also function simultaneously as modes of attribution and articulation.” Social movements make claims about what is problematic about a given arrangement (attribution) and what should be done to address said problem (articulation).

Drawing from these theoretical approaches, I examine several hypotheses about the origins of the drug policy reform movement and its branches:

- What role have intellectual resources played in the drug policy reform movement?

- Do social movement organizations drive drug policy reform?
- Do the social movement organizations in the social movement industry of drug policy reform compete with one another for funding and influence?
- Do changes in the political opportunity structure account for the emergence of new branches within the wider social movement industry of drug policy reform?
- Do the ways that drug policy issues are framed determine whether activists are able to generate support for policy change?
- Do resource mobilization and political process theories adequately account for the agency and activism of participants in movement emergence and success?

Academic Roots of Drug Policy Reform

Although the social movement theories I employ in this chapter do not specifically address the role of academic knowledge in providing movements with oppositional consciousness and vital intellectual resources, there is a clear link between academic critiques of drug prohibition and later positions embraced by the drug policy reform movement. The drug policy reform movement has possessed an academic component from early in its history. In fact, the first serious critic of drug prohibition was the noted sociologist Alfred Lindesmith. Ethan Nadelmann reflected Lindesmith's legacy by naming the drug policy reform organization he founded in 1994 The Lindesmith Center.

Alfred Lindesmith is the founding figure in the sociology of drugs and alcohol. He introduced three theoretical currents that would have continued salience for both sociological approaches to drug users and, decades later, the drug policy reform movement. First, his 1938 theory of addiction stressed the role of social learning in the formation of an addict's self-concept; foregrounding the "Learning" perspective in the field of drug studies. Second, his 1965 book, *The Addict and the Law*, initiated a critical focus on the ways drug policy impacts the experience of drug users. Third, his concept of "social worlds" resurfaces, e.g., in the work of Rosenbaum (1981) and Beck and Rosenbaum (1994) and emphasizes the importance of social context on determining drug problems. Lindesmith's commitment to ethnographic method would also become a hallmark of much sociological work on drugs and alcohol.

Lindesmith (1965) began a major trend in the field with *The Addict and the Law*. By analyzing the impact of drug prohibition on drug addicts in the U.S., he was the first to theorize that the legal status of addicts as criminals actually caused problems relating to their drug use. This insight distills the critique of the drug policy reform movement into one idea; prohibition causes more problems than it solves. In *The Addict and the Law* (1965), Lindesmith challenged prohibitionist constructions of drug users, which sought to demonize and isolate them. Later sociologists would look at this characterization through the lenses of conflict theory and harm reduction. The problems caused by drug prohibition would become a central concern in both the sociological study of drug issues and the harm reductionist branch of the movement.

By critiquing the official state discourse and introducing subjects who challenge its logic, Lindesmith earned the attention and ire of Harry Anslinger, the founder and head of the Federal Bureau of Narcotics from the early 1930s until 1962-“classic period of narcotic control” (Keys and Galliher 2000). During this period the Federal Bureau of Narcotics (FBN) exercised nearly total control over the dissemination of information related to illegal drug use (Courtwright, Joseph and DesJarlais 1989; Musto 1987). Throughout his career, Lindesmith was subject to surveillance and intimidation from the FBN (Galliher and Keys 1998; Keys and Galliher 2000).

Sociologist Howard Becker continued Lindesmith’s critical focus on the ways drug prohibition constitutes and constrains drug use in his 1963 work, *Outsiders: Studies in the Sociology of Deviance*. This work synthesized several of Becker’s earlier journal articles on deviance and drug use, including his 1953 work, “Becoming a Marijuana User,” into a coherent theory of deviance. The two-way focus of the interactionist perspective necessarily deals with the construction and enforcement of drug policy as part of the process of sustained deviant behavior. Because of this, labeling theory theorizes both drug use and reactions to it as parts of the same dialectical whole. Troy Duster (1970) further shifted the gaze of the sociology of drugs, from drug users to their moral status in society. In doing so he contributed to a growing tradition in the field of assailing the bases of drug prohibition. He examines the links between deviance, morality and the law in his 1970 work, *Legislation of Morality*.

Beginning in the 1970s, historical treatments of drug use and regulation would provide academics and movement participants alike with important insights about the implementation of drug prohibition. Key insights from historical works complimented the critical focus in the sociology of drugs and alcohol. In the 1970s and 1980s, numerous authors began to write about the history of drug use and policy in the U.S., Europe and the rest of the world (Brecher et al. 1972; Musto 1973; Levine 1978; Schivelbusch 1980; Himmelstein 1983). In addition to the implementation of domestic policy, historians would also illuminate the role of drugs in colonialism, the historical experience of drug addicts and the implementation of international drug policy. Along with the sociological work of Gusfield (1963) and Duster (1970), historical scholarship on drug prohibition would pave the way for the two main perspectives in the sociology of drugs during the 1980s and 1990s; the constructionist and conflict schools. These schools would continue to provide important intellectual resources to the movement in the 1990s and beyond (Tonry 1995; Reinerman and Levine 1997).

The academic work that would have the most profound effect on the nascent marijuana policy reform movement, however, was Harvard psychologist Lester Grinspoon's *Marihuana Reconsidered*, originally published in 1971. NORML touted Grinspoon's work to support their position beginning in the 1970s, invited him to speak at their first conference in 1972 and installed him on their board of directors in 1995 (Epstein 1995). Grinspoon was continuing a tradition in studying the effects of illicit drugs begun by fellow Harvard researchers Andrew Weil and Norman Zinberg

in the late 1960s. The work of these three authors would also provide critical intellectual resources to the drug policy reform movement for decades to come.

Movement Emergence

Although the intellectual resources that would be implemented by movement actors were circulating as early as the late 1930s, the first organization that sought to challenge drug prohibition (specifically and exclusively marijuana prohibition) did not form until 1964. Although cannabis had been used among certain populations in the United States since early in the twentieth century, the use of the herb did not become widespread until the demographic and social upheavals of the 1960s.

In the 1960s, the Western world went through what Michel Foucault has termed a “rupture.” Waves of social movements began to significantly alter the political, social and cultural order that had persisted for generations. White male hegemonic dominance in nearly all aspects of social, economic and political life was effectively challenged for the first time in history. Anti-colonial movements, the Civil Rights movement, student movements across the globe, anti-war and leftist movements, the Women’s movement and the burgeoning environmental movement all began to radically alter the societies around the world. One important cultural dimension of this social upheaval was the use of illicit drugs including cannabis and psychedelics.

Artistic and literary movements played an important role in the spread of illicit drug use during the 1960s. In the 1950s a group of poets and authors who eschewed traditional sexual and social mores while emphasizing the value of raw

experience and illicit drug use coalesced as the Beat literary movement in New York City and San Francisco. The poet Allen Ginsberg and authors William Burroughs and Jack Kerouac were some of the literary movement's leading lights (Lee and Shlain [1985] 1992). The middle class youth who embraced the values and aesthetic of the Beats came to be known as the Beatniks. Beginning in the early 1960s, the middle class beatniks popularized the use of cannabis on college campuses throughout the U.S. (Booth 2003). The beat literary movement was followed by what became known as the counterculture movement.

Where the Beats and the beatniks extolled the virtues of pot, speed and Eastern religion, the two leaders of the early counterculture movement were driven to spread the gospel of psychedelic drugs, primarily LSD. With ecstatic fervor, Timothy Leary and Ken Kesey began to gather tribes of fellow LSD enthusiasts in enclaves in upstate New York and on the San Francisco peninsula in 1963 and 1964 (Wolfe 1969). Through psychedelic experimentation and pseudo psychological research at Leary's Milbrook estate, and raucous anything goes LSD parties dubbed "acid tests" in Northern California, a psychedelic subculture and its chosen sacrament began to spread into the student protest culture of the 1960s. These two literary-cum-cultural movements radically influenced the culture (including fashion, consumption patterns, and behavior) of the baby boomers; historically the largest population of college age youth the U.S. had ever produced (Lee and Shlain 1992).

During the late 1960s and throughout the 1970s, as the baby boomers came of age, illicit drug use rose dramatically, peaking in 1979 (Goode 2008). According to

Himmelstein (1983), the increasing population of users and their social status (largely white and middle class) changed the ideological climate of cannabis control and furnished the stimulus for cannabis law reform in the 1960s and 1970s. They did this by “altering the dominant stereotypes of the user, by adding new political forces to the drug control arena, and by generating new arguments against existing laws” (Himmelstein 1983:116).

The 1960s witnessed two key events on both the structure and agency sides of the drug policy reform equation. With regard to political opportunities (structure) the Kennedy administration signaled its willingness to liberalize drug policy in two ways. In 1962, Kennedy ended Harry Anslinger’s long tenured control of the Federal Bureau of Narcotics and also conducted several official inquiries into the use of “narcotic” drugs. With regard to activism (agency), the first drug policy reform organization emerged in 1964, when “ultra-conservative civil libertarian” lawyer James R. White III started the organization LeMar in San Francisco. The movement began when LeMar “supported the first marijuana law reform demonstration in America in San Francisco’s Union Square in December of 1964.

LeMar spread throughout the U.S. in the mid 1960s. The famous beat poet Allen Ginsberg joined with Ed Sanders to start a chapter in New York in 1965. By 1966, Berkeley, Cleveland and Detroit all had LeMar chapters. Activist and musician John Sinclair, immortalized by John Lennon’s song “Ten for Two,” started the Detroit chapter. Lennon’s song was a protest of Sinclair being sentenced to ten years in prison for possessing two joints (Anderson 1981). In late 1966, Ph.D. student

Mike Aldrich, started a LeMar chapter at the State University of New York, Buffalo. Aldrich wrote his dissertation on cannabis myths and folklore, and brought the cache of his freshly minted doctoral degree to the newly formed organization.

As support for the anti-war movement grew and the new left became more politicized, many young activists began to see marijuana law reform as a luxury in light of more pressing concerns. LeMar (legalize marijuana) was the first drug law reform organization, but its tenure only lasted four years. According to Anderson (1981), many LeMar chapters folded after the calamitous 1968 Democratic National Convention in Chicago.

As baby boomers continued to alter the demographics of illicit drug using populations, Congress passed a less punitive drug law in 1970, the Comprehensive Drug Abuse Prevention Act, also known as the Controlled Substances Act (CSA). Some scholars have argued that the 1970 law was a response to the widespread use of marijuana among this largely middle class population. According to this view, as the population of illicit drug users became overwhelmingly composed of middle class white youth, Congressional lawmakers sought to lessen the punitive impact of federal law (Himmelstein 1983; Baum 1996; Spillane and McAllister 2003). While the scheduling provisions of the 1970 CSA have been frequent targets of reformers (Anderson 1981; Bock 2000; St. Pierre Personal Communication 2010) they represented a loosening of earlier drug laws and a sea change in the legal basis of federal drug law, from the power of congress to tax to the power of congress to regulate interstate commerce (Spillane and McAllister 2003).

Viewing the 1970 Controlled Substances Act through the lens of political process theory, I posit that it represents an opening for activists to further liberalize drug policy by changing the character of drug prohibition from extremely repressive to less repressive with new possibilities for contestation by activists. In this way the 1970 law represents not an endpoint but a prologue for the activities of drug policy reformers in the 1970s. It changed the legal landscape slightly and although it is associated with the “law and order” Nixon administration, when viewed according to the *longue durée*, it represents a significant liberalization of U.S. drug policy. Perhaps most important with regard to the opening of political opportunity structures, the law mandated the formation of a presidential committee to investigate the impact of cannabis use and law and to make recommendations for future legislation.

In addition to the passage of the CSA, 1970 also witnessed the formation of the longest tenured movement in the drug policy reform movement. Springing from the same social milieu of social upheaval and social protest, young attorney Keith Stroup formed the National Organization for the Reform of Marijuana Laws (NORML). While NORML was predated by LeMar, it was different from its predecessor in several important ways. LeMar was largely a student organization, and Stroup was an attorney with important connections to policy actors in Washington D.C., a clear way of framing the goals of his new organization, and important resources to bring to bear.

In line with the primary insight of resource mobilization theory, the key to NORML’s success in the 1970s was its mobilization of important financial, institutional and strategic resources. NORML was largely the brainchild of its

founder Keith Stroup. According to Stroup, there were three factors that contributed to his personal involvement with drug policy reform and the founding of the organization. The first was that he was a “stakeholder,” as a smoker of cannabis, the second was his involvement with Ralph Nader, and the third was the strategic counsel given by the former Attorney General Ramsey Clarke. He repeatedly used the term “stakeholder” throughout the interview, and stressed the importance of being honest about being a “stakeholder” or “smoker” of cannabis. He said he was “turned on to smoking” while he was a first-year law student at Georgetown University in 1965.

The issue of being a stakeholder is important. Embracing the identity of a drug user is both politically and legally risky. Taking the position of a stakeholder is important to NORML because its leaders believe that this position offers an honest, and believable stance to advocate for the legalization of marijuana (Stroup 2010; St. Pierre Personal Communication 2010). The belief that drug users are the most effective advocates for drug policy reform would become a central organizing focus of the harm reduction branch of the movement. When I interviewed Stroup in 2010, he argued that “coming out” was an important strategy that the drug policy reform movement could learn from the gay rights movement. In my research I have heard a variety of movement leaders recommend the strategy of “coming out,” from Ethan Nadelmann of the Drug Policy Alliance to Cheryl Shuman of Beverly Hills NORML. The strategy behind “coming out” revolves around the idea of normalizing a stigmatized practice and identity (Wieloch 2002).

In 1968, Stroup was a public interest lawyer working for the National Commission on Product Safety. While working for the commission, Stroup worked closely with Ralph Nader and his consumer protection organization, Nader's Raiders. This gave Stroup an introduction to "public interest law" and an immense respect for Nader. Stroup wanted to start a consumer protection group for marijuana smokers to apply what he had learned working with Nader to the protection of marijuana smokers. When I interviewed Stroup, he stressed that the consumer protection frame was essential to his vision for the burgeoning organization. In line with this frame, he stressed that the organization was not as focused on protecting marijuana producers and sellers as it was on protecting smokers.

According to Stroup (Personal communication 2010), product safety was not the issue of his generation,

My generation had been turned on to marijuana...the war in Vietnam and the marijuana laws were the two issues that were mostly bothering my generation, and when you went to those big demonstrations in Washington, there would be 500,000 to 800,000 showing up on the mall, in addition to protesting the war, they all passed around a lot of marijuana...it was a way of saying, not only do I disapprove of the administration's running of this war, but there are a lot of other things I also disapprove of...smoking marijuana was a way to... thumb your nose at the...people who had put us in the Vietnam war...

Cannabis use was a symbol of the antiwar movement, a practice that ritualized membership in the opposition. It was an act that was personal, political and (counter)cultural.

The third factor that contributed to the founding of the new organization was the influence of former Attorney General Ramsey Clarke. When Clarke began to appear at anti-Vietnam war rallies, he garnered Stroup's respect, which only grew

when Clarke advocated the legalization of marijuana in his 1970 book *Crime in America*. So Stroup decided he needed to talk to Clarke. After some difficulty, Stroup met with Clarke to ask his advice about “starting a legalization lobby.” Stroup stressed that the prospect was a “little intimidating, because I may destroy my career...because this is going to be pretty radical to a lot of people.” Stroup said Clarke replied, “Yes, you need to do it, because it needs to be done, and you’ve got to do it while you are young...do it, and now is the time.” Clarke suggested that Stroup keep the acronym NORML, but call the organization the National Organization for the Reform (as opposed to Repeal) of Marijuana Laws.

The strategic and intellectual resources provided by Nader and Clarke were key to Stroup’s decision to found NORML in 1970. The infusion of funding from the Playboy Foundation was also an indispensable resource to the early organization (Anderson 1981). After the Supreme Court legalized a woman’s right to have an abortion on the basis of a Constitutional right to privacy, the young organization and its intellectual godfather, Ramsey Clarke, sought a quick legal fix to the prohibition on cannabis use. Clarke and NORML argued that the right to privacy that formed the legal basis of the *Roe v. Wade* decision also protected an individual’s right to use marijuana. The Supreme Court dismissed the suit and the organization began to plan its legislative strategy (Stroup Personal Communication 2010). Ironically, a Presidential Commission appointed by President Nixon in 1970 provided another key intellectual resource to the new organization in 1972.

As directed by the 1970 Controlled Substances Act, Nixon appointed the National Commission on Marijuana and Drug Abuse to study the growing use of marijuana by the younger generation and to make policy recommendations. Nixon staffed his 1970 Commission with hand picked conservatives, including its chair, Republican governor of Pennsylvania, Raymond Shafer, hoping that it would recommend the continued criminalization of marijuana. According to Stroup (personal communication 2010), the commission members were largely unfamiliar with cannabis and its effects. Consequently they relied on testimony from a wide array of experts (including Stroup) and on observing and interviewing cannabis users in private sessions. Surprisingly, the Shafer Commission found that marijuana was relatively harmless and recommended its decriminalization, but Nixon ignored his commission's findings (Baum 1996). The governments of Canada and the Netherlands formed similar commissions at the same time, but unlike the U.S. government, they implemented new drug policies based on their commissions' findings. Although the commission's findings represented an appeal for drug policy reform, it largely fell on deaf ears until Stroup and NORML began to use the report to support their case for marijuana policy reform. Ironically, the sub-title of the report was "A Signal of Misunderstanding." In effect it provided an important "signal" to NORML and a powerful intellectual resource for the young organization (St. Pierre Personal Communication 2010).

Although Stroup and other NORML leaders were initially disappointed that the report only called for the decriminalization of marijuana, as opposed to its full

legalization, they decided, “we can’t not support this.” Decriminalization means the removal of criminal penalties for possession of less than a certain amount of marijuana. Instead of being charged with a felony or misdemeanor, possession under a certain amount would be treated like a parking infraction. According to current NORML executive director Allen Saint Pierre (personal communication), for the first five years the organization embraced the goal of decriminalization as specified by the report. Using the report “like a writ” Stroup lobbied Congress for a bill to decriminalize cannabis at the federal level. After little movement with members of Congress, the organization formulated a strategy known as “the road show.” St. Pierre stated that NORML had much more success at the state level because State legislators were from a different generation than Congressional lawmakers who were largely “older men [with] hardly any cultural affinity with marijuana at all.” The idea was that the “states had tremendous autonomy” and that state legislators were “much more responsive...younger in age...and may...have an affinity with marijuana.”

By shifting their efforts from Congress to state legislatures, embracing the paradigm of decriminalization, and using the Shafer report as “a writ” to support its claims, NORML had some success in getting states to decriminalize marijuana possession in the mid 1970s. The organization embraced the adage, “you don’t want to let the perfect be the enemy of the good.” In line with this strategy, NORML opted to support the idea of decriminalization, while eschewing the goal of full legalization. According to Stroup, this strategy was pragmatic, but perhaps not entirely honest. In its campaign to decriminalize marijuana possession in various states, NORML never

used the frame of being “pro-pot,” instead, it embraced the frame of strategically using limited government resources. According to Stroup (2010), the organization would later move away from the cautious approach it followed in the early 1970s, when Stroup and others believed cautiously calling for decriminalization was the most expedient strategy to follow. Although the organization embraced a more “pro-pot” frame in the mid-1970s, Stroup and St. Pierre both noted that other organizations in the marijuana branch of the movement still decry NORML as incremental and not radical enough.

NORML’s incremental approach did not mesh well with its chief rival and eventual ally on the west coast, the organization Amorphia. Amorphia led a push to thoroughly and radically legalize cannabis use with a 1972 California ballot initiative, with the motto “free legal backyard dope!” Amorphia was ambitious and attempted to generate its own financial resources by selling marijuana-rolling papers to support its political activism. By generating its own revenue stream, the organization attempted to free itself from the need to rely on outside donors or membership dues and donations. According to Sinclair (2010):

Amorphia had been established in 1970 by Blair Newman to manufacture and sell Acapulco Gold brand rolling papers to raise money for a marijuana legalization movement that would include a media campaign, a news service, a speakers' bureau, court tests of pot laws, and funding expert witnesses to appear before state legislatures to lobby for legalization.

The organization recruited Mike Aldrich from LeMar to help lead the drive for the ballot measure, known as the California Marijuana Initiative or CMI. In 1972 Aldrich reached out to Stroup and John Sinclair “to tour the state's college campuses,

give press conferences, and speak publicly on behalf of Proposition 19¹” (Sinclair 2010).

Despite the radical nature of the initiative, NORML lent its support to the effort. Led by Amorphia, several different (and often competing) organizations put the California Marijuana Initiative on the ballot in 1972. Although it failed, 1972’s Prop. 19 garnered nearly one third of the vote (Anderson 1981). According to Sinclair (2010), the young marijuana law reform movement was encouraged by the 33% yes vote on the initiative. Indeed this support would give momentum to local activists in Berkeley and San Francisco throughout the 1970s. Initially, Amorphia’s innovative approach to generating resources contributed to its success in getting the CMI or Prop. 19 on the ballot, but an ambitious business decision led to its downfall. The organization attempted to “develop the first hemp rolling papers for U.S. distribution, a proposition that eventually swallowed up all available funds and sent Amorphia's legalization activities into a tailspin (Sinclair 2010). By 1974 Amorphia “was folded into the NORML structure and reconstituted as the California branch of the National Organization for the Reform of Marijuana Laws” (Sinclair 2010).

NORML leader Stroup and Amorphia head Mike Aldrich were initially competitive rivals, plagued by what current NORML director Allen St Pierre decries as the chief obstacle to a more cooperative drug policy reform movement; “alpha male-ism” (Personal interview 2010). According to St. Pierre, the initially competitive and uncooperative relationship between Stroup and Aldrich became more

¹ The 1972 CMI had the same proposition number as a 2010 initiative to tax and regulate marijuana in the state. Both initiatives were given the title, Proposition 19.

cooperative as the two men decided to work collaboratively on the lobbying effort to pass a marijuana decriminalization bill through the California legislature in 1975.

After the defeat of the 1972 CMI, Aldrich and Amorphia founder Blair Newman were more willing to embrace the decriminalization approach of Stroup and NORML. The successful 1975 decriminalization bill was named the “Moscone” bill after its iconic sponsor, San Francisco’s George Moscone.

During the 1970s NORML’s biggest accomplishment was its success in lobbying state legislatures to implement the “decriminalization” of cannabis in eleven states. According to Stroup (Personal Communication 2010):

We put a...road crew...together, and we would go to any state in the country where we could identify, usually, a young legislator ... who was willing to introduce a bill to implement that proposal, stop arresting smokers....Usually we’d hit three or four states at a time....Between ‘72 and ‘77, we picked up 11 states, we decriminalized marijuana in 11 states.

Stroup stated that working through legislative bodies entailed compromising and watering down the organization’s goals. He noted that the Shafer Commission Report was essentially a compromise between its more liberal members who sought full legalization and more conservative members who would only recommend decriminalization. He ruefully pointed out that Oregon became the first state to decriminalize marijuana possession after the bill’s sponsors reluctantly agreed to the inclusion of a \$100 civil fine for possession in order to secure its passage. The fine compromise would have long echoing consequences for all successive bills for decriminalization. According to Stroup: “The first law was Oregon with a \$100 civil fine. Now what that meant was that every other single fucking state, the next ten, that

decriminalized marijuana all went for that model. Instead of going for complete decrim, they went all went for a \$100 civil fine...”

This pattern of legislative mimicry has recently repeated itself with state medical marijuana laws passed through state legislatures (as opposed to those passed through ballot initiatives). State legislatures only pass laws with restrictive provisions modeled on other state laws.

After Oregon and California, Alaska, Colorado and Ohio followed suit in 1975. Continuing lobbying efforts on the part of Stroup and other NORML members convinced lawmakers in Minnesota to decriminalize in 1976. In 1977 and 1978, Mississippi, North Carolina and Nebraska (states not normally viewed as bastions of liberalism), joined New York in decriminalizing marijuana possession (Anderson 1981).

By the mid 1970s, the National Organization for the Reform of Marijuana Laws (NORML) was the most prominent and successful national drug policy reform organization. The organization had effectively taken over its biggest competitor, by incorporating the leadership of Amorphia into California NORML. In addition to spearheading decriminalization efforts in ten states, forming a network of defense attorneys for marijuana defendants, and assisting Robert Randall in his fight to use marijuana medicinally, the organization had access to key members of the Carter Administration. Stroup routinely testified before commissions and legislative bodies and was frequently consulted by media outlets when they needed his expertise on marijuana and marijuana policy (Stroup Personal Communication 2010). NORML

was successful on several fronts: defending cannabis defendants; lobbying the federal government; and supporting state campaigns for decriminalization.

With NORML's help, Robert Randall used a medical necessity defense to sue the federal government to allow him to use cannabis to treat glaucoma. He went on to found the Alliance for Cannabis Therapeutics, an organization that continued to play a major role in the medical marijuana movement for decades. In 1978, the National Institute on Drug Abuse began to provide Randall and several other cannabis patients with cannabis grown on the NIDA research farm in Oxford, Mississippi (Anderson 1981). The research farm continues to grow medical marijuana for a handful of federally approved medical marijuana patients under the Compassionate-Investigative New Drug program in 2012.

Another major NORML campaign was the rescheduling of marijuana under the 1970s Comprehensive Drug Abuse Act. Although the 1970 law represented a shift from the more punitive federal drug laws passed in the 1950s (Spillane and McAllister 2003), to drug policy reformers, the scheduling provisions the act called for were problematic. According to the provisions of the 1970 act, drugs were placed into four categories, or schedules, based on their addictive liability and therapeutic qualities. The law categorized marijuana and the psychedelics as schedule I drugs, meaning that they had no therapeutic value, a high addictive liability and no accepted safety standards. According to the law, researchers were not allowed to conduct studies on people with schedule I drugs, and such drugs were forbidden for use in medical practice. The drug scheduling system codified by the new law would

become the foundation of an international system of drug control (Levine 2003; Bullington 2004).

Changing the placement of cannabis in schedule I of the Controlled Substances Act has proven to be a chimera for NORML and a bevy of other organizations. The ongoing, 40-year-long, saga to reschedule cannabis demonstrates a remarkable level of intransigency on the part of the Drug Enforcement Administration. NORML, later joined by the organization Americans for Cannabis Therapeutics originally sued the DEA to reschedule cannabis in 1972. The basis of the suit was that marijuana did in fact have therapeutic qualities. This suit would not be fully resolved until 1994. In 1988 the suit took a bizarre turn when Judge Francis Young, the DEA's own administrative law judge ruled:

The evidence in this record clearly shows that marijuana has been accepted as capable of relieving the distress of great numbers of very ill people, and doing so with safety under medical supervision. It would be unreasonable, arbitrary and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in light of the evidence in this record (as quoted in Trebach and Zeese 1990).

Despite this ruling, the DEA rejected Young's ruling and decided to maintain cannabis in schedule I. John Gettman, the director of NORML in the early 1990s, sued the DEA to reschedule cannabis in 1995 on the basis that it did not in fact pose serious risk of abuse. Gettman's suit languished in the bureaucratic backwaters of the DEA, the Food and Drug Administration and the Health and Human Services department for eight years before being dismissed. As of spring 2012, a group of organizations named the Coalition to Reschedule Cannabis continues to use a variety of legal tactics in a seemingly vain attempt to bring about the rescheduling of

cannabis (Coalition to Reschedule Cannabis 2011). The status of cannabis as non-therapeutic has been symbolically and empirically refuted by the existence of medical marijuana and the numerous studies by physicians and researchers whose findings attest to its therapeutic qualities (Reinarman, Nunberg, Lanthier and Heddleston 2011).

Throughout the 1970s, NORML and other organizations continued to enjoy moderate success with their decriminalization efforts; they also enjoyed the status of a legitimate lobbying organization in Congress. As a presidential candidate in 1976, Jimmy Carter even adopted the decriminalization of marijuana as part of his campaign platform, and the movement for drug policy reform seemed to be building momentum. Carter's plans to decriminalize marijuana and NORML's status as a bona fide and legitimate lobbyist organization dramatically flamed out in 1978, when Stroup alleged that Dr. Peter Bourne, Carter's drug policy advisor, used cocaine with other Carter staffers at NORML's Christmas Party.

Stroup was very forthright about his poor judgment with regard to the "Bourne Affair." He had been very angry about the decision of the Carter Administration to continue the spraying of the toxic herbicide Paraquat on marijuana fields in Mexico, a policy begun during the Ford administration. This position was in line with his background in consumer protection and his vision of NORML as a consumer focused organization. His relationship with Bourne, Carter's proto-drug czar, was quite friendly and when he could not get Bourne to stop the administration from spraying Paraquat, he relented to pressure from *Washington Post* reporter Jack

Anderson and said that he “could neither confirm nor deny” the allegations of Bourne’s cocaine use at the NORML Christmas party. The allegations became front page news and Stroup was implicated as outing Bourne. Consequently, Stroup lost his credibility with policy makers and activists alike and he decided to step down from the organization (Stroup Personal Communication 2010). The fallout from the “Bourne Affair” also led Carter to abandon his embrace of marijuana decriminalization (Baum 1996), in effect closing a window of opportunity for the early drug policy reform movement.

When I interviewed Stroup and St. Pierre about this dark period in their organization’s history, they provided me with some insight into its near collapse.

When I asked Stroup if he thought the decriminalization in the states would continue, he replied,

We thought we were on a roll and there was no stopping us, in some ways when I look back on it, we were a bit cocky....We thought it was just a matter of another three, four, five years and we’d have the whole country decriminalized at a minimum...we figured if we got 25-30 states we’d get Congress to act. Well what we underestimated is, the mood of the country sometimes changes fairly dramatically in a reasonably short period of time....Little did we know, but the last state we won was Nebraska in...1978, and it was eighteen goddamn years before we won another state, and that was California on medical use....All of that public support went away....For the next decade and a half you just had to keep your head down low. (Stroup Personal Communication 2010).

The organization had to shift its focus to maintaining the gains it made.

Despite the progress NORML made in the 1970s and the seeming inevitability of marijuana legalization the organization and its allies hit a brick wall at the beginning of the 1980s. The pendulum swung heavily back toward repression with

the election of Ronald Reagan in 1980 (Anderson 1981, Stroup 2010). According to Stroup, “From ’82 until ’94 we didn’t win anything...those are not great years to be running a legalization lobby.” During this period, NORML was the only major organization working for drug policy reform in the country. Several members of its advisory board would split off to form the more broadly focused anti-prohibition organization the Drug Policy Foundation in 1988. In 2010 John Sinclair charged, “the NORML regime remained fully in control of the issue for a quarter of a century yet failed to take legalization even one step further than the Moscone Act of 1975.” In the mid 1990s, Dennis Peron and Scott Imler would mobilize AIDS patients to finally breathe life into drug policy reform (Bock 2000; Sinclair 2010).

According to St. Pierre (Personal Communication 2010), there were several factors that led to NORML’s demise in the 1980s. Chief among them was the election of Ronald Reagan and his version of the “war on drugs,” a war that was much more punitive than Nixon’s version. Second, the blunders of the Bourne affair and the cockiness that Stroup alluded to above also contributed to the organization’s downfall. When Stroup stepped down as the head of the organization in 1979 and left its board in 1981, it lost its big donors, including its biggest, the Playboy Foundation. This loss of financial resources drastically limited the effectiveness of the organization (Personal Communication St. Pierre Personal Communication 2010). This finding corresponds with the primary insight of resource mobilization theory; that resources are a crucial component of a movement’s success. Third, the rise of a parent’s movement led by Sue Rusche that was adamantly opposed to the drug

culture and any liberalization of drug policy. From attending numerous drug policy reform conferences over the past five years, I learned leaders in the movement learned much from this fourth mistake; sensitivity to the concerns of parents has become a major focal point.

Two New Branches of the Movement Form

In the 1980s, as NORML weathered internecine squabbles and failed to make progress, contingencies stemming from the increasingly punitive “War on Drugs” embraced by Ronald Reagan and George H. W. Bush began to shape new areas of concern for drug policy reformers. These included threats to public health, social justice, civil liberties and good public policy. Specifically, drug policy reformers viewed the AIDS epidemic and its spread through needle sharing among injection drug users, racially discriminatory policies targeting crack cocaine users, mandatory minimum sentencing guidelines, a rise in violent crime, threats to civil liberties, the incarceration boom and asset forfeiture as damaging consequences of the “War on Drugs.”

As the AIDS epidemic exploded, injection drug users, activists, public health workers and academics first practiced *then* theorized the “harm reduction” approach as a viable and necessary alternative to punitive prohibition. At roughly the same time, some of the leading intellectuals from NORML’s board of directors lobbied for the organization to broaden its focus beyond marijuana. Arnold Trebach and NORML director Kevin Zeese wanted NORML to work to end drug prohibition entirely, not just marijuana prohibition. This rift led them to split off from NORML

to form a new organization called the Drug Policy Foundation in 1985. In concert with several prominent conservative thinkers, the Drug Policy Foundation would initiate a third anti-prohibitionist branch of the movement. In addition to these two new branches or streams of drug policy reform, an infusion of new activists and ideas would revitalize a new wave of marijuana law reform at the end of the decade.

In the next two sections I trace the history of the two most recent branches of drug policy reform and the birth of the second wave of the marijuana movement. In my analysis of the harm reduction movement, my data lead me to shift from my focus on social movement organizations to discuss how the movement for harm reduction sprang from a new modality of practice. Although harm reduction matured into a unified philosophy and social movement, its origin as a user-originated practice turns the hypothesis that I began this project with, that policy change stems from the activity of organizations, on its head. After tracing the development and formalization of harm reduction, I discuss some prominent harm reduction organizations and the role of mobilizing resources in the spread of the movement. My discussion of both the anti-prohibitionist branch of the movement and the re-birth of the marijuana movement as the medical marijuana movement returns my primary focus to the role of movement organizations, competition for resources, and a new strain of resource mobilization theory that analyzes the relationship between “membership-based organizations” and professionally staffed “advocacy organizations.”

Harm Reduction

From an analytical standpoint, the key point I want to emphasize about the beginning of the harm reduction movement is that drug using activists began the movement long before formal organizations took up its banner, and academics from the fields of public health, epidemiology, medicine, social work, and sociology made the movement and the modalities it employs the focus of voluminous studies. Before drug treatment workers and academics elaborated the terminology and philosophy of harm reduction, a union of heroin users in Amsterdam instituted a needle exchange program to combat the spread of the Hepatitis C virus among themselves (van de Wijngaart 1991).

What often gets lost in published accounts of both the history and practice of harm reduction is the contribution and experience of drug users, outreach workers and volunteers. Injection drug users in Amsterdam were the driving force behind organizing and initiating user-focused harm reduction (a term that was coined years later) in the form of needle exchange. The Junkiebond began in Amsterdam in 1981. It was a union of heroin users who lobbied for a publicly funded syringe exchange and the provision of low threshold methadone treatment (Van de Wijngaart 1991). Drug users and ex-users continue to play an instrumental role in both the reproduction and further elaboration of harm reduction. The practice of needle exchange, and the pragmatic response of the Dutch government to the new modality of drug policy, would catch on and grow into an integrated approach to drug problems, from disease prevention, to treatment provision, to the social integration of drug users. The formal

elaboration of harm reduction as a philosophy would draw extensively from Dutch approaches to drug policy (Erickson, Riley, Cheung and O'Hare 1997).

The overarching concept that links harm reduction to its Dutch forebears is "normalization" (Engelsmann 1989; van de Wijngaart 1991; Erickson et al. 1997; van Solinge 1999). According to van Solinge, (1999: 512) "Drug use is treated according to a normalization model of social control, which aims for the depolarization and integration of deviance, as opposed to a deterrence model of social control, which aims for the isolation and removal of deviance." In the US, the demonization and criminalization of drug use and users has occurred largely because the course established by Harry Anslinger has continued unaltered (Keys and Galliher 2000). In accordance with the normalization approach, drug problems are seen as "normal social problems" as opposed to specific problems located in individuals that must be eradicated by specific and special treatment (van Solinge 1999: 512). In this regard the normalization perspective also eschews medical and pathological views of drugs and their use.

In 2012, needle exchange programs are still the chief modality of harm reduction. The movement grew as a public health response to the spread of AIDS through needle sharing by injection drug users in the 1980s. When heroin users in Amsterdam organized the first exchange, AIDS had just appeared and HIV had yet to be discovered. The first official publicly-funded exchange program was instituted in Amsterdam in 1984 (van de Wijngaart 1991). According to Wodak (1992), "For many countries, the recognition of AIDS in 1981 came too late. Tens of thousands of

male homosexuals, IDUs and haemophiliacs (sic) were already infected by the Human Immunodeficiency Virus and the national blood supply contaminated before the alarm bells began ringing” (p. 549).

After scientists and epidemiologists recognized that HIV/AIDS could be spread through sharing infected injection equipment, individuals began to implement NEPs in various locales around the world. In Australia, the Netherlands, and parts of the U.K. government agencies actively embraced needle exchange, low threshold (easy to access) drug treatment, and methadone maintenance to combat the spread of HIV and increase the effectiveness of drug treatment (O’Hare 1990; Wodak 1992; Wodak and Lurie 1997). In other parts of the world, including New York City, which had the largest HIV epidemic among IDUs in the world in 1985, activists (not government agencies) had to engage in civil disobedience to operate needle exchange programs (Des Jarlais et al 1994). As drug users, activists, and public health providers engaged in civil disobedience to exchange needles in U.S. cities including New York, San Francisco, and Tacoma, the first organization dedicated to needle exchange, the North American Syringe Exchange Network, emerged as an informal confederation of needle exchange programs in 1988.

In the United Kingdom, the city of Liverpool emerged as the incubator for the formalized version of the inchoate harm reduction approach. According to O’Hare (1990: 141), the “Mersey Drug Training and Information Centre” was initially established by the Mersey Health Authority to provide information, but soon became central to the development of the “Mersey Harm Reduction Model.” O’Hare (1990)

discusses both the need for interagency cooperation and the international potential of the new approach:

The Mersey Harm Reduction Model is dependent on the cooperation of a number of agencies: drug dependency clinics, local police, social services, syringe exchange schemes, and outreach workers. The agency continues to recognize the need to service these various bodies with accurate information and training at the local level. However, the demand for the services that we offer has grown, at both the national and international levels. (P. 143).

By late 1989, the formalized Mersey Harm Reduction Model, was ready for export.

In 1990, the first “International Conference on the Reduction of Drug-Related Harm” was held in Liverpool, England. Many professionals working in the fields of public health, drug treatment, and epidemiology identified this event as the formal beginning of “harm reduction” as a philosophy and guiding perspective (Heather et. al 1993; Erickson et. al 1997; Marlatt 1998). It is useful to view the Liverpool conference as the definitive starting point of the organized global harm reduction movement. One important result of the conference was the formation of the International Harm Reduction Association, a formal organization dedicated to promoting the growth of harm reduction on a global scale. It has continued to host annual conferences and publishes *The International Journal of Drug Policy*. The anthology, *Psychoactive Drugs and Harm Reduction: From Faith to Science*, is loosely based on the proceedings of the Third International Conference on the Reduction of Drug-related Harm, held in Melbourne, Australia, in March of 1992.

After several more conferences and a profusion of academic research, Erickson et al. (1997) provided a model of harm reduction at the conceptual, practical, and policy levels. Conceptually, its proponents assume a “value neutral

view of drug use...and drug users.” They eschew the view that drug use as inherently immoral, medically pathological or socially deviant. Harm reductionists view drug use as normal behavior, which can range from experimental to chaotic in its expression. The perspective focuses on problems related to drug use, its negative consequences, as opposed to drug “use per se” (1997: 8). Although abstinence is an ideal outcome for treatment it is not the only acceptable outcome. Practically, harm reduction seeks to prioritize goals, promote the use of pragmatic and flexible programs, center programs around users, and emphasize choice. Treatment providers can tailor programs to address drug problems of variable severity. Concerning policy, harm reduction seeks to implement “a mosaic of mid-range policies” (1997: 9), work within the framework of existing prohibition policies, and “focus on human rights (1997: 10).” Erickson et al. (1997: 10) contend that the approach seeks to decrease the amount of harm to rights and civil liberties that the “War on Drugs” causes to both drug users and the wider population.

“Harm reduction” grew into a full-fledged social movement in the late 1980s and throughout the 1990s. Needle exchange, or syringe exchange, continues to be the most visible and inexpensive form of implementing the harm reduction approach. It is also a globally well-distributed form of harm reduction, with needle or syringe exchanges operating in Australia, Canada, and throughout countries in Western Europe. NEPs operate sporadically in the Western and Northeastern US, (General Accounting Office 1993; Des Jarlais et al. 1994; Watters et al. 1994; Satcher 1998;

Paone et al. 1999) Eastern Europe, the former Soviet Union (Coffin 2002), and Asia (Grassly et al. 2003).

All needle exchange programs share some common attributes. They either exchange or distribute clean syringes to IDUs and other participants as part of a user-focused public health campaign. Needle exchange programs fall into two main categories, state-funded (found more recently) or privately-funded. According to Paone et al. (1999), “the primary goal of SEPs is to reduce HIV transmission associated with drug injection by providing sterile syringes in exchange for used, potentially contaminated syringes” (p. 43). In addition, SEPs often provide medical services such as HIV and HCV testing, wound and abscess care, and information on methadone programs and other forms of drug treatment. A growing number of NEPs also provide Naloxone, a compound that can be injected to bring heroin users out of an overdose. In the US, Sherman and Purchase (2001) divide NEPs into three legal categories, “legal; illegal-tolerated (decriminalized); or illegal-underground” (p. 46).

The ability of harm reduction proponents (harm reductionists) to mobilize financial resources has limited the adoption of harm reduction modalities in a given locale. In Western Europe, Australia, and Canada governments have actively funded harm reduction approaches to drug problems. In the U.S. and other parts of the world governments have prevented such programs from being funded. Public funding (hard won by activists) has been a major boon to the efforts of harm reductionists. In addition to the inability to secure funding, needle exchange programs, overdose

prevention, and safe injection facilities are sometimes illegal and actively blocked by law enforcement agencies.

While governments have actively embraced the harm reduction approach to drug problems in countries across the Western world (Wodak and Lurie 1997), in the U.S., an inhospitable political context has contributed to the rise of a social movement for harm reduction. In the U.S., legislation, policy makers, and law enforcement actively block the adoption and funding of needle exchange and other forms of harm reduction. Due to this context, in the U.S. proponents and consumers of harm reduction engaged in civil disobedience, activism, lobbying, and litigation to implement, maintain and fund harm reduction modalities.

Pioneers in the field of harm reduction often engaged in civil disobedience to advance the adoption of needle exchange programs (Des Jarlais et al. 1994, Paone et al. 1999, Sherman and Purchase 1998) and later, safe injection facilities (Kerr et al. 2003, Wodak et al. 2003). These individuals are also influenced by local legal and political arrangements, and the fact that activism is a structurally and culturally available option. Wieloch (2002) examined the ways that radical harm reductionists deployed “oppositional capital” to forge a collective identity that transformed and elevated a stigmatized identity into an oppositional identity. Two social movement organizations have emerged as the chief advocates for harm reduction in the U.S. One is a professionally staffed advocacy organization, the Harm Reduction Coalition, and the other is a membership based organization comprised of representatives from various types of needle exchange programs, the North American Syringe Exchange

Network. In addition to lobbying and advocacy, the Harm Reduction Coalition promotes harm reduction by producing informational material, providing trainings, sponsoring interventions, and organizing at the community level.

A battle to mobilize federal funding for needle exchange programs has been a defining feature of the harm reduction movement in America. According to the director of the Harm Reduction Coalition, Allan Clear:

Since 1988 the federal ban on the funding of syringe exchange has been the lightning rod for both advocates and opponents of harm reduction. The federal ban would serve to structure the political and practical agenda of harm reduction advocates for the coming two decades. Researchers were charged with demonstrating that syringe exchange reduced HIV infections and did not increase drug use. Advocates and activists endeavored to garner recognition for the empirical and scientific evidence supporting the efficacy of syringe exchange and fought for lifesaving equipment, to cultivate financial resources for programs working with drug users, and increase access to healthcare. The opposition maintained a steady stance, rooted in decades of propaganda aimed at individuals who used drugs, consistently countered evidence-based scientific claims with half-truths, and continued to stigmatize drug users.

Created and sustained by activists, many of whom had direct experience as drug users, the harm reduction movement rapidly burgeoned in the United States. It was built on client-centered services, underpinned by common sense and strengthened by scientific evidence. (Clear 2010).

By adding new modalities (including safe injection facilities, drug education curricula, and pill testing), and expanding needle exchange programs, public health workers, injection drug users, drug treatment specialists, and movement organizations expanded the principles and practice of harm reduction throughout the world in the 1990s. The diffusion and expansion of harm reduction has occurred through the work of social movement organizations, non-governmental public health and drug treatment organizations and government sponsored programs at the national and sub-

national levels. Harm reduction has grown considerably in the developing world. This is largely due to the activity of large social movement organizations including the International Harm Reduction Development (IHRD), Australia's Burnett Institute and more recently the United Nations Joint Programme on AIDS (Central and Eastern European Harm Reduction Network 2003). In Eastern Europe and in the countries of the former Soviet Union, George Soros and his Open Society Institute have helped to implement harm reduction efforts including methadone maintenance and needle exchange. This has occurred through the actions of the IHRD, and cooperation from local and provincial governments (Coffin 2002).

Although harm reduction was originally focused on drug problems related to injection drug use, its proponents are also concerned with the conveyance of drug-related information, drug treatment, (including methadone maintenance, especially when it is harm-reduction-based), controlled drinking, pill testing, drug policy reform and a variety of other approaches. The concept of controlled drug use (Zinberg 1984) expands the philosophy of harm reduction to the use of psychoactive drugs other than injected drugs. As needle exchanges promote safer injection drug use, harm reductionists have proposed the controlled drinking of alcohol (Larimer et al. 1998; Marlatt and Witkiewitz 2002) and healthier ways of ingesting cannabis (Morgan, Riley and Chesher 1993; Hathaway and Erickson 2003). Similarly, harm reduction approaches to treatment can be applied to nearly all forms of drug treatment (Marlatt and Witkiewitz 2002).

Analyses of harm reduction as a social movement are often controversial. Some have sought to disentangle harm reduction from other drug policy reform movements (especially those that seek drug legalization). Hunt (2004) argues that, to maintain its focus on public health, harm reduction must remain distinct from human rights-based approaches to drug policy. Others (Reinarman 2004) contend that harm reduction should retain its ambiguous status as a political hybrid in order to maximize recruitment and adaptability to local legal arrangements. Many advocates of harm reduction frequently confront aspects of drug prohibition that complicate and constrain their efforts (Heather et al. 1993; Erickson et al. 1997; Des Jarlais et al. 2000; Wodak et al. 2003). MacCoun and Reuter (2001; 2002) have recently highlighted harms that result from US drug prohibition. These include the metastasizing growth of the U.S. prison population, and the generation of highly unstable drug markets that lead to violence.

My research led me to discover two problematic currents in much of the academic writing on harm reduction; the first is the personification of harm reduction as if “harm reduction” were a thinking and feeling actor, and the second is the presentation of “harm reduction” as monolithic and unified. Proponents of harm reduction range from radical to liberal. Explaining his decision to provide the overdose stopping opioid Naloxone in 2002, Gerald Cayer, director of health and human services for Portland, explains, "We're focusing on the problem as a public health issue rather than a criminal issue. Our short-term goal is to reduce mortality. Our long-term goal is to reduce opiate use (Bouchard 2002)." In this statement, a

public health official simultaneously advocates for one of the more radical manifestations of harm reduction (the provision of Naloxone) while arguing against one of its central tenets, (a value-neutral view of drug use). This illustrates the elusive nature of harm reduction and the disconnect that sometimes occurs between the textual elaboration and the practice of harm reduction.

Although harm reduction developed independently from the largely dormant movement for marijuana law reform in the early 1980s, in 2012 the harm reduction movement has fed back in to the wider river of drug policy reform. Its spread throughout the globe during the 1990s and 2000s has made it the widest branch of the drug policy reform movement. Along with the revitalized marijuana policy reform movement, harm reduction joins with anti-prohibitionism to form a diversified drug policy reform movement. The biggest strength of the harm reduction movement is its ability to present a unified philosophy of drug policy reform that serves as a pragmatic and cogent alternative to punitive prohibition. I will revisit the application of the harm reduction frame to the marijuana movement in my concluding chapter.

The Anti-Prohibitionist Branch of the Movement

My analysis of the anti-prohibitionist branch of the drug policy reform movement benefits greatly from three sources: Blain's (2002) analysis of the development of the anti-prohibitionist branch; a detailed interview with current NORML director Allen St. Pierre; and an anthology titled *Drug Prohibition and the Conscience of Nations*, published in 1990 by the major anti-prohibitionist organization working at that time, the Drug Policy Foundation. As the only scholarly

paper to focus on the development of the anti-prohibitionist branch of the movement, Blain's work was essential in directing me toward sources to examine in greater detail. Ultimately, however, my analysis differs greatly from his by linking this branch of the movement to its forebears and connecting it back to the medical marijuana movement in later chapters.

The anti-prohibitionist branch of the movement stemmed from two main sources, directly from NORML and indirectly through the work of conservative intellectuals who began to critique the war on drugs of Reagan and Bush during the late 1980s. Blain (2002) cites the formation of new SMOs and the emergence of critics on the Right and Left as evidence of the movement's genesis. According to Blain (2002):

The first sign that a new movement was emerging was the publication of both 'conservative' and 'progressive' critiques of the Reagan 'drug-war.' From the right, critics such as Milton Friedman, Thomas Szasz, and William F. Buckley attacked the government's drug war policy and advocated decriminalization. Ethan Nadelmann...organized the 'Princeton Group' to focus on the drug law reform issue. Another important event was the founding of the Drug Policy Foundation by Arnold Trebach and Kevin Zeese in 1987 (P. 12).

What Blain omits is the insight that the Drug Policy Foundation sprang directly from NORML.

When I interviewed, NORML director Allen St. Pierre in 2010, I asked him about what happened to NORML in the mid-1980s. He informed me that a major rift on its advisory board greatly harmed the organization, but also contributed to the founding of a new organization, and, I would argue, to a new branch of the drug

policy reform movement. According to St. Pierre, a member of their board, professor Arnold Trebach, thought that NORML's charter was too narrow by only focusing on marijuana prohibition. Trebach wanted the organization to alter its charter to focus on issues stemming from the prohibition of all drugs, and the board was split on the matter. According to St. Pierre, "He wasn't a marijuana smoker and he didn't want to limit his anti-prohibitionism to marijuana,...[consequently] half the board left to form a new organization...The Drug Policy Foundation, which...today is the Drug Policy Alliance." St. Pierre continued that this move had two main consequences, the formation of an intellectually more stimulating branch of the movement and the exodus of NORML's few remaining large funders. St. Pierre (2010) continued, "by 1985 you have a bifurcation, you have NORML and you have the Drug Policy Foundation."

This bifurcation would initiate a trend in the DPRM, individual staff members leaving to form new organizations with different areas of focus. The defection of major funders and NORML's director Kevin Zeese, "who took with him a lot of the institutional memory and many of the lawyers with NORML went over [to the Drug Policy Foundation]," led to the rapid development of the DPF and a reorganization of NORML. St. Pierre emphasized that DPF sought to embrace an impartial and scientific orientation to problems associated with drug prohibition as opposed to a stakeholder's perspective. This distinction is a key difference between the two organizations. In a 1990 DPF publication, Trebach and Zeese collect articles from a variety of drug policy scholars to decry a wide range of problems related to the

prohibition of drugs. These range from denying medical marijuana to sick people, the spread of AIDS through contaminated needles, asset forfeiture, threats to global security and creating a violent drug trade. Some of these concerns overlap with those of the harm reduction and marijuana policy branches of the movement. This overlap continues with the current anti-prohibitionist branch of the movement and reflects my thesis that the three branches of the movement form a unified drug policy reform movement in 2012.

The anti-prohibitionist branch would gain momentum during the early 1990s.

According to Blain (2002:13):

[B]y 1990, the Drug Policy Foundation claimed to have 20 thousand dues paying members.... In 1994, the billionaire, George Soros began financing the Lindesmith Center, a think tank led by [former Princeton University professor] Ethan Nadelmann with offices in New York City and San Francisco that would be devoted exclusively to research in support of the reform of U.S. drug policies, formed an independent think tank with funding from the billionaire George Soros.

In 1996, the Lindesmith Center, Nadelmann, and Soros would play a vital role in putting Proposition 215, the Compassionate Use Initiative, on the ballot in California by forming the campaign oriented organization Californians for Medical Rights (Bock 2000; Goldsberry Personal Communication 2011). I will return to the role of Californians for Medical Rights in greater detail in chapter four when I look at the development of medical marijuana in California in much greater detail.

Additionally, newer organizations focused specifically on mandatory minimum sentences for drug offenses and new federally mandated sentencing

guidelines including Families Against Mandatory Minimums, The Sentencing Project and the November Coalition formed during the 1990s. According to its website:

Families Against Mandatory Minimums is the national voice for fair and proportionate sentencing laws. We shine a light on the human face of sentencing, advocate for state and federal sentencing reform, and mobilize thousands of individuals and families whose lives are adversely affected by unjust sentences.

The emergence of new mega-funders, particularly George Soros, for drug policy reform organizations in the 1990s, would bifurcate the movement into two types of organizations based on their funding sources. These organizations do not map completely on to the categories used by Walker et al. (2011), who divide organizations into two types, non-membership advocacy based organizations and membership advocacy organizations. Non-membership based organizations are more likely to rely solely on one or two mega funders. Conversely, membership based organizations are more likely to rely on funding from membership dues and smaller donors. Walker et al. (2011) argue that these two types can co-exist and work cooperatively, while earlier formulations of resource mobilization argue that these types are strictly competitive (McCarthy and Zald 1977). While I discovered that rivalries for funding exist between these two different types of organizations, both types can co-exist and use their strengths to reform drug policies in different fields of action. Grass roots organizations are better suited to mobilize protests, engage in civil disobedience, and install reform modalities. Professionally staffed organizations are better suited to fund-raising, state level ballot initiative campaigns, and lobbying at the state and national levels.

By 2000, the Drug Policy Alliance formed after the Drug Policy Foundation encountered its own organizational troubles. The Drug Policy Alliance combined the funding resources of the Lindesmith Center and Geroge Soros, with the research capabilities of the Drug Policy Foundation (Blain 2002; St. Pierre Personal Communication 2010). According to St. Pierre (Personal Communication 2010), Ethan Nadelmann was able to combine the two organizations through the strength of his personality and the ability to secure funding. The Drug Policy Alliance has become the most important organization in the DPRM, as it is able to provide funding to smaller local organizations and short term election-oriented campaigns, play a prominent role in debates in major media outlets (including newspapers and cable news programs), and host a bi-annual conference that unites representatives from the three branches of the movement from around the world. Because of its ability to fund smaller local organizations, DPA played a huge role in the direction the movement took during the 2000s. By founding and funding smaller organizations as subsidiaries, DPA wields a large amount of influence within the movement. In line with resource mobilization theory, the ability of DPA to mobilize financial resources has allowed it to fund more specifically focused social movement organizations within the wider social movement industry of drug policy reform.

The Revitalization of the Marijuana Movement

When John Gettman took over as NORML's new director in 1986, he was no longer able to rely on past funders, including the Playboy foundation, its greatest benefactor during the 1970s. Consequently, the organization embraced a grass roots

orientation toward fund raising and growing the organization. “The organization went back to its original grass roots, which is organizing among cannabis consumers exclusively....From ’86 to about ’89...I would argue is the rebirth of marijuana law reform in the United States. People...weren’t relying on elitists (sic) (billionaires or millionaires) to give them money, they were going to go out and ask people, ‘if you want representation, you have to put some skin in the game, give us five dollars, will give you a button or t-shirt’...” (St. Pierre Personal Communication 2010). According to St. Pierre, the grass roots direction that the organization led to an unsustainable fund raising model, based on traveling the country and soliciting donations from chapters and sympathetic organizations. This difficulty demonstrates the importance of mobilizing financial resources to organizational effectiveness. The advent of the Internet would address some of these shortcomings by increasing the capacity of the organization for fundraising while decreasing its operating expenses.

Despite the re-embrace of a grass roots approach during the 1990s, the marijuana movement continued to fragment into different areas of concern. Nearly all of the marijuana oriented organizations that formed in the 1990s and early 2000s “sprang from NORML’s bosom.” St Pierre continued that the second printing of Jack Herer’s book *The Emperor Wears No Clothes*, inspired some younger activists including Debby Goldsberry and Monica Pratt to begin touring the country in a van to spread the good news about hemp, first as NORML tours, then as Cannabis Action Network (CAN) tours. Despite requests from CAN members, The NORML leadership did not want to abandon its office in Washington, so eventually CAN split

off from NORML to pursue a more radical approach to activism. St Pierre (Personal Communication 2010) noted that some CAN activists sent letters to NORML decrying the incrementalism and reliance on lawyers that typified the older organization's repertoires of contention.

St. Pierre decried what he termed the “balkanization of the movement” in the 1990s. Resource mobilization theorists look at the proliferation of movement organizations within a wider social movement industry, but they do not account for the emergence of new concerns and challenges that a SMI may face. By de-emphasizing grievances, resource mobilization cannot explain the diversification of the SMI of drug policy reform. As the war on drugs expanded in the 1980s, new activists mobilized around new sets of grievances, which eventually led to the formation of new organizations. The image of a closed social movement industry that competes over a finite set of resources and participants does not accurately capture how the three branches of the drug policy reform movement emerged over time, as the context of drug policy and drug use changed.

According to St. Pierre, three key components typified the formation of new organizations. The first was pursuing an “entrepreneurial need to do something else that NORML wasn’t doing; “you’ve got the hempsters, ‘only deal with hemp,’ the medical people, ‘only deal with medical,’ the legalizers [anti-prohibitionists], only deal with legalization.” The second was dissatisfaction with NORML’s reputation and tactics, or conflicts with its leadership (what St Pierre termed “divisions amongst alpha males”). The third, arguably most important was the ability to secure funding

from two mega-funders, George Soros and Peter Lewis, which allowed newer organizations to pursue movement goals without mobilizing large numbers of new participants. The organizations that St. Pierre mentioned included, Forfeiture Endangers American Rights (FEAR), the Marijuana Policy Project, Students for Sensible Drug Policy, and various hemp groups. He characterized the divisiveness of this balkanization as a lasting feature of the wider drug policy reform movement that persisted in 2010. Similar to resource mobilization theorists, St. Pierre does not account for the mobilization of new participants and new sources of funding.

According to St Pierre, the “two major conduits” for the funding new organizations in the 1990s and early 2000s, were “George Soros through the DPA or ...Peter Lewis through the Marijuana Policy Project. He estimated that by 2000 there were roughly 30 organizations in the wider movement. He cautioned that over reliance on two major funders could have negative consequences for the movement:

In 2005 I gave a...plenary at the DPA [conference]...chiding the movement for becoming so dependent on all these rich peoples’ money, because they really didn’t have any constituents themselves anymore....Meaning that if Mr. Soros and Mr. Lewis, woke up one day and [put their money elsewhere]...all of these groups would just disappear overnight because they don’t rely on stakeholders to support what they do.

Similar to McAdam (1982), St. Pierre also warned that over reliance on elite benefactors could also imperil the integrity of insurgent goals. He claimed that elite benefactors did not contribute to the 2010 Proposition 19 campaign to tax and regulate marijuana in California, because they could “not control the narrative.”²

² Soros did eventually contribute \$1 million to California Proposition 19 after I interviewed St. Pierre

According to St. Pierre, mega funders reluctantly contributed to Proposition 215 in 1996, because various organization leaders convinced them that Proposition 215 afforded the movement with its first opportunity for a significant victory since the 1970s. At the Drug Policy Alliance's 2011 International Drug Policy Reform Conference, Ethan Nadelmann said that big donors will contribute when they think an initiative is "bold and winnable."

Two main types of organizations typify the movement, larger membership based organizations and smaller professionally staffed organizations. Funding from elite benefactors often leads to the formation of smaller professionally staffed organizations. Whereas larger membership based organizations are often more dependent on funding from membership dues and donations. Despite the typology I have drawn, membership based organizations often do have a professional staff and headquarters, but they also feature large numbers of members distributed across the country. My typology focuses on national organizations, but the DPRM also features numerous state and locally focused organizations as well.

Table 2.1: Major Organizations in the Drug Policy Reform Movement by Funding Source and Organizational Form

This Table displays an ideal-type typology, and the two variables represent tendencies. The organizations are fluid because some rely on a mix of funding sources, and their reliance on the two types of funding may vary over time.

Type of Organization	Funding Sources	
	Multiple Funding Sources	Mega Funders
Membership Based Organizations	NORML (1970) Americans for Safe Access (2002) Students for Sensible Drug Policy (1998-9) Law Enforcement Against Prohibition (2002) North American Syringe Exchange Network (1988, 1991)	
Professionally Staffed Organizations	Families Against Mandatory Minimums (1991) Harm Reduction Coalition (1993)	Drug Policy Foundation (1985>2000) The Lindesmith Center (1994>2000) Drug Policy Alliance (2000) ³ Marijuana Policy Project (1995)

Despite personal differences, competition for funding, and organizational diversification, many of the individuals, organizations, and mega-funders that I have introduced in this chapter cooperated to facilitate the early development of medical marijuana in California during 1995 and 1996. Medical marijuana in California would prove to be the first major victory for the movement since the 1970s (Stroup Personal Communication 2010). It would also lead to a domino effect as 17 other

³ The Drug Policy Alliance grew out of a merger between the Drug Policy Foundation and The Lindesmith Center

states and the District of Columbia passed medical marijuana laws between 1998 and 2012.

Conclusion

The number of organizations working for drug policy reform has increased, with local organizations and chapters of national organizations scattered throughout the U.S. and Canada. In 2012, the most prominent national organizations in the DPRM are the Drug Policy Alliance, the National Organization for the Reform of Marijuana Laws, Students for Sensible Drug Policy, Americans for Safe Access, Law Enforcement Against Prohibition, The Harm Reduction Coalition and the Marijuana Policy Project. Additionally numerous local organizations working toward drug policy change are also part of the DPRM (Drug Policy Reform Conferences 2009, 2011).

In the 1970s, reformers were largely stakeholders from privileged backgrounds working to change marijuana laws. Using interview data, the work of drug policy scholar Jerome Himmelstein, and insights I gleaned from political process theories, I discovered that it was a combination of changing political opportunity structures (involving shifts in the position of U.S. government officials and ruptures in the demographic and social order), and the class and status position of early organization founders that allowed for the early marijuana law reform movement to succeed in decriminalizing marijuana possession through ten state legislatures in the 1970s. In line with research mobilization theory, my analysis shows that the ability of Stroup to employ official government reports, private

funding, and social relationships as resources also contributed to the success of NORML in the 1970s.

The punitive policies of Reagan and Bush, and the devastation wrought by the AIDS epidemic (which was amplified by the policies of punitive prohibition), created new participants in the drug policy reform movement. From the 1980s to the late 1990s the drug policy reform movement was characterized by three main branches with disparate foci; harm reduction and containment of HIV through needle exchange, anti-prohibitionism with its focus on mandatory minimum and sentencing disparities, and the marijuana policy reform movement. As the 1990s progressed, these three disparate branches began to feed into one another. To use the metaphor of a stream with tributaries, initially the three streams of drug policy reform flowed separately through different channels. In the late 1990s, these three tributaries began to feed into one another. The result has been an increasingly networked and integrated social movement industry with internal tensions and factions. Despite competition for funding and factionalism, the numerous organizations in the DPRM often work in concert with one another on the same campaigns.

Despite some competition for financial resources, the DPRM is enjoying an ever-increasing measure of success. The most successful policy reform that has been championed by numerous organizations within the DPRM has been the institution of medical marijuana. Additionally, needle exchange programs and other approaches to drug policy based on the harm reduction philosophy continue to take hold in the U.S. despite the lack of public funding and hostile politicians. As Ferraiolo (2004; 2007)

and Reinerman (2011) note, these successes demonstrate that drug policy reformers have been successful when they frame reforms in terms of health, while they are unsuccessful when they frame their efforts in terms of rights. Many of the organizations, leaders, and mega-funders, I have introduced in this chapter will re-emerge in my case study of the medical marijuana movement in California in chapter four.

In addition to starting with different policy goals, many of the SMOs that make up the DPRM initially framed their reform efforts in different terms; often employing disparate metaphors and making arguments on behalf of different sets of actors and values. Activists and organizations in the early drug policy reform movement, including NORML and Amorphia, framed their efforts in terms of personal liberty and individual rights. Organizations used these frames to call for the legitimate use of psychoactive drugs (primarily cannabis and to a lesser degree psychedelics) in a free society. During the AIDS crisis of the 1980s, however, a new group of drug policy reform advocates used public health and social justice frames to mobilize their efforts. As the mood became increasingly repressive under Reagan's war on drugs, arguments based on personal liberty were no longer viable. As the AIDS crisis intensified and poor people of color began to serve disproportionately long sentences for crack cocaine offenses, the harm reduction movement began to embrace frames based on the logic of public health, and social and racial justice. Anti-prohibitionists framed their efforts differently depending upon their ideological origins. Prohibition's critics on the right decried it as government overreach, an

affront to personal liberty, and a waste of government resources. Prohibition's critics on the left decried the social injustices of the approach as poor people of color increasingly bore the brunt of its enforcement (Trebach and Zeese 1990; Blain 2002).

While these divides initially contributed to some rancor between disparate aspects of the movement, at the 2009 International Reform conference, it appeared that they had been transformed into a source of strength and not a source of contention. Instead the DPRM had become both more diverse and at the same time more inclusive. This process was testament to the successful efforts of the DPA in serving as an umbrella organization for the widely disparate SMOs that comprise the wider social movement industry of the DPRM. In the future, the way that the disparate strains of the movement cooperate with one another will have significant bearing on the movement's success. In the next chapter I focus on a dimension of movement activity that is left under-theorized by both resource mobilization and political process theories, the sites of movement activity in the drug policy reform movement. This focus will provide a detailed analysis of how participants in the movement interact with one another to accomplish drug policy reform.

CHAPTER III: SITES OF SOCIAL MOVEMENT ACTIVITY

From origins to effectiveness, scholars have studied an array of social movement phenomena. They have investigated the origin of social movements through a variety of lenses (Smelser 1963, Eisinger 1973, McAdam 1982). While these orientations and shifting foci have answered many important questions about social movements and social change, with a few exceptions (Castells 2004) scholars have underemphasized the physical (and extra-physical) locus of social movement activity. In this chapter I wish to expand on Tilly's concept of "repertoires of contention" to theorize three sites of social movement activity as both tactics drawn from a culturally and historically determined "repertoire" and as something more than tactics. By looking at these three sites as both tactics *and* the loci of social movement activity I wish to highlight the underemphasized importance of space and physical location to the study of social movements.

Repertoires of Contention

Tilly (1978) extends Eisinger's theoretical insights about political opportunity structures from the municipal to the national level. Additionally, he focuses on changes in opportunity structures over time. His most novel theoretical position is that activists chose tactics from "repertoires of contention," that were also conditioned by political opportunity structures. For Tilly (1977, 1978), the tactics and styles of protest that movement actors employ are both historically and geographically constrained:

The word repertoire identifies a limited set of routines that are learned, shared and acted out through a relatively deliberate process of choice. Repertoires

are learned cultural creations, but they do not descend from abstract philosophy or take shape as a result of political propaganda; they emerge from struggle. People learn to break windows in protest, attack pilloried prisoners, tear down dishonoured houses, stage public marches, petition, hold formal meetings, organize special interest associations. At any point in history, however, they learn only a rather small number of alternative ways to act collectively. (Tilly 1995: 26).

This definition illuminates several important features of the concept of repertoires. Primarily, they are learned, culturally and historically constrained and demonstrate that the choices movement actors make are constrained. Repertoires are also social and arrived at through processes of interaction. According to Tilly (1995:30), “a repertoire of actions resembles not individual consciousness but a language; although individuals and groups know and deploy the actions in a repertoire, the actions connect sets of individuals and groups.” Crossley (2002: 129) argues that the notion of repertoires as communicative parallels E.P. Thompson’s concept of the moral economy, by communicating discontent in culturally prescribed ways that make their meanings apparent to all parties involved.

One of the major critiques of Tilly’s conception of repertoires is that there is no room for innovation in repertoires of contention. If repertoires are historically constrained, then how do new tactics emerge? This critique is all the more salient in light of Tilly’s commitment to historically grounded analysis. According to Crossley (2002), Tilly provides very little in accounting for the emergence of new tactics. It is also noteworthy that much of Tilly’s theoretical work is based on an empirical study of social movements in 18th century England.

By looking at such an antiquated case, Tilly would be unable to detect the role of newer communication technologies and forms of social movement activity (including conferences and rallies) in the diffusion of novel tactics in repertoires of contention. I argue that the advent of the Internet has sped up the rate of tactic acquisition both within and between given movement organizations and sectors. Other authors (including Castells 1996, Cohen and Rai 2001, Moghadam 2009) have posited that the Internet has played an enormous role in increasing the communication and coordination abilities of activists across the globe. I theorize that the Internet is innovative by generating new tactics of protest by broadcasting the existence, success and failure of innovative forms of protest or action and integrating people through social networks. Hemp rallies and conferences are also important tactics drawn from the contemporary repertoire that organizations in the drug policy reform movement draw from.

In addition to theorizing the use of the Internet, conferences, and rallies as expanding the repertoires of contention, these three “tactics” also exhibit the physical sites where the drug policy reform movement constitutes itself. To highlight this little studied aspect of social movements, this chapter analyzes the sites where social movement activity occurs in the Drug Policy Reform Movement. I conceptualize hemp festivals and rallies, conferences and the Internet as the three primary sites of interaction, communication, and organization for the Drug Policy Reform Movement. As social movements are no longer typified by mass protest events like the “March on Washington” during the Civil Rights Movement hemp rallies, conferences and the

Internet represent the sites where the DPRM becomes a mass phenomenon, where participants can interact face to face, and where it occupies physical space. Although the DPRM accomplishes important goals outside these three venues, (through tactics including protest, direct lobbying and civil disobedience), it is at these three sites that the DPRM primarily constitutes itself. Durkheim's focus on collective effervescence offers me one way to explore public gatherings, including hemp rallies and conferences. As addressed by Polletta (1998) and Jasper (1997) speaking events (including narrative and public speeches) play important roles in movements. Attending public speaking events and public speeches provide researchers with entrée into the symbolic worlds of movements. The Internet is the most novel venue for members of the DPRM to interact with one another. Although Castells (2004) has briefly theorized how social movements use the Internet, I seek to analyze and clarify the various ways that the DPRM uses the Internet to achieve its goals and increase connectivity among participants.

Hemp Rallies and Hemp Festivals

Hemp rallies are an important if controversial feature of the drug policy reform movement. Hemp rallies represent one culturally available tactic in the repertoire of the drug policy reform movement. Civil disobedience, an important tactic for earlier social movements including the Civil Rights movement, is an important component of many hemp rallies. As with segregated lunch counter sit-ins by African American college students in the South, hempfest attendees protest the illegality of smoking cannabis by doing so in public. Unlike sit-ins in the 1960s,

however, public cannabis smokers at hempfests are usually not subject to violence and arrest from the police. Protestors make a spectacle of breaking what they see as an unjust law. “Smoke-ins” have been a tactic in the repertoire of marijuana reformers since the early 1970s (Anderson 1981).

To investigate the features of hempfests and hemp rallies, I engaged in participant observation by attending events, interviewed activists about their participation, taking photographs, and attending and recording speeches. My sampling frame was not exhaustive, but I attended twelve hempfests, hemp rallies and later conventions in the San Francisco Bay Area from 2005 until the present. I attended three main types of events, college campus events, social movement events and commercially oriented events. By 2009, it was increasingly difficult to separate the events I attended into social movement or commercial events as there was considerable overlap at several events. In 2005 and 2009, I traveled to Seattle to attend the Seattle Hempfest (the largest hempfest in the world). I also attended smaller local events including the Sonoma Harvest Dance in Sebastopol in 2008 and 2009 and Santa Cruz’s WAMM-Fest in 2008 (WoMen’s alliance for Medical Marijuana). For Campus events, I attended two hemp rallies at Florida State University in 2002 and 2003 and two 4-20 Celebrations at the University of California, Santa Cruz. For commercial events I attended, “The Cannabis and Hemp Expo” in San Francisco in 2010 and 2011, and the “Deep Green Festival” in Richmond, California in 2011.

For many of these events, I was not only a participant but also a volunteer activist with the organization Cannabis Action Network and later the Berkeley Patients Group, a politically active medical cannabis dispensary. By working as a volunteer, I was given a unique window onto the hemp rally experience. I was not only in possession of movement literature (pamphlets, fliers and wallet sized cards), my task was to converse with event attendees and to answer their questions about policy and policy campaigns (including ballot initiatives and enforcement efforts). This subject position gave me a great vantage point of the concerns held by participants in the cannabis movement. The Cannabis Action Network is primarily an education-oriented organization that dispersed information about cannabis, cannabis policy and “know your rights” cards to assist people in dealing with the police. From this vantage point, I learned that many attendees had questions about their status as medical marijuana patients and in Seattle where they could find dispensaries to attain the medical cannabis they were legally allowed to possess. In addition to attending numerous events, I also conducted several in depth interviews with key drug policy reform activists about their own recruitment to the cannabis movement. I wanted to know if hemp rallies and movement literature played a role in their recruitment and participation.

Hemp rallies are also important sites for movement activity, sites that provide physical space for the drug policy reform movement to become “collectively effervescent” in the words of Durkheim (2001 [1912]). These events provide venues where previously atomized individuals can coalesce and network in person.

Attendees unfamiliar with the drug policy reform movement can learn about formal organizations, speakers and celebrities, lobbying and cannabis law and culture. Rallies also bolster participants' political values by providing psychologically valuable ideological support. Cannabis users come together and see that they are not isolated or alone, and that people are in fact working to change cannabis policy. By listening to speeches, attendees are exposed to the "collective action frames" of drug policy reform (Snow and Benford 1992). Face to face interactions among participants form new bonds of solidarity and also intensify Internet-based bonds among digitally engaged participants in the DPRM. Hemp rallies also provide participants in the drug policy reform movement with opportunities to make themselves and their work visible. The events generate both internal and external media coverage that reflect a critique of drug prohibition.

Hemp rallies and festivals allow cannabis users and potential movement participants to meet each other, network and share information about current policies, current campaigns and cannabis, organizations facilitate attendees with the tools to lobby elected officials, solicit donations and increase their e-mail lists at hempfests. Using the familiar tools of many social movement organizations from all over the social movement map, activists at these tables distribute literature, solicit petitions and implore both the newly initiated and returning faithful to contact their political representatives regarding specific legislation. They also educate the public about current reform campaigns and their rights as medical marijuana patients or people seeking to become medical marijuana patients.

Hemp fests and hemp rallies come in a variety of forms. As noted above, I have divided the events into three main types; college campus events, activism oriented events and commercially oriented events. Within these three types, events vary on a number of features, including size, cannabis smoking by attendees, and number and types of vendors. Some hemp rallies have also changed over time as they have grown in size and become more established. Some of the more famous events include the Boston Freedom Rally, begun in 1992 and held every September, the Ann Arbor, Michigan Hash Bash, and the Washington D.C. Fourth of July Smoke-In (Halperin and Bloom 2007). Some attendees at the Boston event get arrested on purpose, as designed acts of civil disobedience with criminal consequences (StoptheDrugWar.org). In addition to these large-scale events, small-scale college campus events have been a fixture of the drug policy reform movement since the 1980s (Goldsberry Personal Communication 2011). Another type of small-scale event are small town festivals, such as Santa Cruz's medical marijuana-themed WAMM fest and the Sonoma County Harvest Dance. Like the large-scale events, these smaller events serve as fund raisers for reform efforts and continuing the mission of organizations like WAMM. These events also help to knit together the local and the national.

There are also considerable regional differences between events. The Seattle Hempfest is adorned with oceans of hand blown glass, and dozens of other accoutrements, where smaller events at college campuses have a very low number of vendors. Despite their small size, however, both the Santa Cruz WAMM festival and

the Sonoma County Harvest Dance featured a fair amount of food, clothing and smoking instrument vendors. From visiting events throughout the United States and talking with vendors about where they reside, I learned that the Pacific Northwest (Washington and Oregon) has the most concentrated number of glass artisans who specialize in hand blowing glass smoking pipes and bongs. Musical performances have also grown in prominence at such events with the Seattle Hempfest now featuring five stages for musical performances.

Table 3.1: Characteristics of Hemp Rallies Attended

Event	Type of Event	Years Attended	Vendors	Public Cannabis Smoking	Heavy Police Presence	Speakers/ Live Music	Number of Attendees
Seattle Hempfest	Activism Oriented	2005, 2009	Food, SMOs Clothing Instruments Dispensaries	Sporadic	Minimal with little action	Multiple stages for speakers and live music, panels	200,000 to 300,000
Santa Cruz WAMM Fest	Activism Oriented	2008	Food Clothing Dispensaries SMOs	In Designated Medical Consumption Areas	Minimal (2-4 police cars)	One stage with speakers and music	500-700
D.C. Smoke-In	Activism Oriented	1994	SMOs	Frequent	Police around perimeter of park	Speakers and march	400-500
U.C. Santa Cruz 4-20	Campus Event	2009, 2010	None	Frequent	Minimal 5-10 police near perimeter of field	None	3,000 to 4,000
Florida State University Hempfest	Campus Event	2002, 2003	One SMO (FSU NORML)	None, due to oppressive police presence	Heavy 20-22 Police from FSU PD	4-5 Speakers and 3 musical acts on one stage	150-200
The Cannabis and Hemp Festival (San Francisco)	Comm. Oriented With entrance fee	2011, 2010	Dispensaries Clothing Grow Equipment Auxiliary Businesses Utensils	In Designated Medical Consumption Areas	None Private security inside	Speakers, music and panels	1,500 to 2,000
Deep Green Festival	Comm. Oriented with entrance fee	2011	Dispensaries Clothing Grow Equipment Auxiliary Hemp Utensils	Designated Medical Consumption Areas	Private security inside	Speakers, music and panels	400 to 500

The largest (albeit not the longest tenured) event, representing the hemp rally writ large is the Seattle Hempfest. The Seattle Hempfest had humble beginnings. When it began in 1991, roughly 500 people attended the all-volunteer event. By 2009, over 200,000 people attended the event, which has grown into the largest event of its type in the world (Seattle Hempfest 2009). I describe the features of the Seattle event in detail later in this chapter.

The D.C. Smoke-In and Civil Disobedience

The 4th of July rally in Washington D.C.'s Lafayette Park (across the street from the White House) has been going on for nearly two decades longer than the Seattle event. Begun by the Yippies in the early 1970s, the Washington D.C. rally and “smoke in” is the longest tenured hemp rally type event in the nation (Halperin and Bloom 2007). Because of the small size of Lafayette Park, the D.C. event is much smaller than its counterpart in the Pacific Northwest. The D.C. event pioneered the formula for hemp rally events; the assembly of marijuana enthusiasts and advocates for mass civil disobedience in the form of concerted marijuana smoking, rousing speeches by established (and often professional) activists in the movement, music performances and relatively little interference from the police.

The crowd intentionally engages in civil disobedience by smoking cannabis in public. Such mass smoking at the event effectively serves to make smoking marijuana a political act. Because it is adjacent to the White house the event makes this mass display of civil disobedience through smoking, a highly visible act of

political defiance. Almost as if the clouds of smoke billowing from the park were directed at the inhabitant of the nearby White House. At the D.C. event, attendees also march from the site of the smoke in to a free concert on the national mall near the Lincoln memorial.

The D.C. event was my first initiation into the drug policy reform movement and it afforded me my first moment of movement consciousness. I attended the D.C. rally as a wide-eyed and idealistic recent high school graduate in the summer of 1994. I was drawn to the event by the thrill of smoking marijuana in public and attending a party that I hoped would conform to my more fanciful notions of the 1960s. During my senior in high school I became more politically conscious, the two issues that concerned me the most were the criminalization of drug users and the prevalence of guns and gun violence in our society. I found the idea that otherwise law-abiding adults could be prosecuted for enjoying certain substances to be anathema to the ideal of individual freedom that our nation was supposedly premised on, the fact that individuals could own dangerous and potentially lethal handguns only compounded my befuddlement and exasperation that smoking pot, my newfound vice, was illegal.

I still recall the visceral excitement that coursed through my veins as I made the familiar trip into D.C. that summer morning. Upon arriving at Lafayette Park, my friends and I lit up the joints that we had rolled for the event and smoked with giddy abandon. It was quite exhilarating to smoke openly in such a public space. I was shocked that the police did not enter the park to arrest anyone. Instead they patrolled the perimeter of the park to ensure that no one was hurt. This was my first dose of

civil disobedience; it proved to be fun and low stakes with regard to the prospect of arrest.

Hemp rallies were prominent events in the lives of two cannabis activists I interviewed. Both “Sebastian” and “Jim” worked at medical cannabis dispensaries, (Sebastian as a partial owner and Jim as an employee) mentioned that their attendance at these rallies was their first *formal* introduction to marijuana law reform. Sebastian talked about attending a hemp rally put on by the Cannabis Action Network (CAN) on his college campus in 1989:

We went to this event and CAN had a table with a “hemp museum” featuring products made from hemp. CAN always had the hemp museum at their events. They also had flyers, t-shirts and books for sale. They were looking for lead people, you know people who would organize permits, set up tables, make flyers for the next year so they wouldn’t have to do all that, so they could just roll into town and set up, have everything set up for them. I bought a copy of *The Emperor Wears No Clothes*, and wrote a paper on it for my English writing class. And I got an A on it. So, I went to the rally and then wrote the paper, and then three years later I ran into the same people in California, although I didn’t realize it at first.

Jim said that his first experience with formal marijuana law reform was at the Seattle Hemp Fest in 2000. Similar to Sebastian, he also discussed the importance of meeting people and receiving literature at the event. After attending their first hemp rallies, both Jim and Sebastian helped to set up hemp rallies at their college campuses in later years.

According to Sebastian, there were several features of the hemp rally that made a particularly lasting impact on how he thought about cannabis. These features included the provision of literature and “cannabis knowledge,” and tangible samples

of hemp products. After becoming part of the Cannabis Action Network in Berkeley during the early 1990s, he talked about the importance of tangible hemp products and the prominence of the “hemp museum” as a feature of CAN outreach displays:

The hemp museum was always a big thing with CAN. Any CAN event featured a Hemp Museum. To me the fact that the museum featured hemp products was very important. That the products were tangible was key, it served as physical evidence that a lot of what is told about cannabis is lies. When I first held a piece of hemp plastic in my hand it blew me away because I had no idea that you could make products out of hemp. It made me question a lot of what I had learned about the herb. When I touched that hemp plastic, I realized that there was something more than what was being told...realized lies had been told...all knowledge about cannabis was lies...

The concept of forbidden knowledge was central to Sebastian’s narrative of activism. He talked about the hegemony of misinformation vis-à-vis widely held public views of cannabis and the use of activist literature to combat the dominance of such misinformation. He also discussed fighting stereotypes of cannabis users through living by example and “walking a fine line.”

According to Sebastian, “You realize that you don’t fit the stereotype...we are working people, thoughtful people who don’t want to be pitied, we aren’t lazy or dumb, but we have to actively fight the stereotypes because that’s what society gives us.” He continued that knowledge was crucial to running a successful medical cannabis dispensary:

If you think about it, we are part of the less than 1% of the population that have worked in medical cannabis. And we work in a successful club at that. And a huge part of our success is through knowledge. We’ve brought in people along the way that possess a wealth of knowledge about cannabis.

Subaltern knowledge, or knowledge that challenges the hegemony of drug prohibition and prohibitionist knowledge is a central feature of the drug policy reform movement. Essentially, the drug policy reform movement is a challenge to drug prohibition, a call for a new set of policies to deal with drug use. Knowledge and ways of knowing antithetical to prohibition are the lifeblood of the drug policy reform movement, and hemp fests and hemp rallies provide venues for the circulation of such subversive knowledge. Conferences and the Internet are two other important venues for the circulation of anti-prohibitionist knowledge and action, to which I will return later in this chapter. In the following sections, I discuss the several different hemp rallies in depth.

Campus Events

Hemp Rallies have taken place on college campuses across the country. Students and marijuana activists at the University of Illinois have held a “Hash Bash” at their campus in Champagne for nearly 20 years (Goldsberry Personal Communication 2011). The University of California, Santa Cruz is also famous for its massive smoke in, held in a meadow on campus every April 20th (a date that holds special significance for marijuana enthusiasts across the country). Despite the events’ popularity, one would be hard pressed to find an organized movement presence to the event. If anything it is a gigantic celebration, with college students from UCSC and young people from the wider area making the pilgrimage to Santa Cruz to smoke pot with little interference from the police. Despite being largely immune to arrest, by

smoking at the event, attendees are in fact engaging in civil disobedience, and making a political statement that challenges the practice of prohibition.

The 4-20 smoke in at U.C. Santa Cruz can be seen to lie at one end of the continuum of college hemp fests. It features massive pot smoking, no speakers, no organizational presence and little police interference. At the other end of this continuum of college hemp fests are events such as the hemp rallies held at Florida State University in 2002 and 2003. In many ways the events are the converse of one another.

At the Florida State Hempfests the scene was drastically different from the party like atmosphere at U.C. Santa Cruz on April 20th. For one, there was a heavy police presence. The University police were stationed throughout the somewhat sparsely attended event. As a result, there was no public pot smoking at the F.S.U. event. The mood was tense and not celebratory, attendees were somewhat fearful and the police scrutiny was intense. Thirdly, and most importantly, there were numerous speakers advocating marijuana legalization and an end to its prohibition. Several features of the event, including its organization by Florida State NORML, a heavy police presence, no cannabis smoking, and activist speakers gave the F.S.U. Hempfest a decidedly political (as opposed to celebratory) cast.

WAMM-fest 2008

In Santa Cruz, California, an iconic city for two of the most high profile forms of drug policy reform (medical marijuana and needle exchange/overdose prevention) the WAMM Fest is an annual hemp rally held in a park downtown to support the

medical marijuana collective known as WAMM (The WoMen's Alliance for Medical Marijuana). The rally is similar to the Seattle Hempfest but on a much smaller scale. Its essential formula, however, is the same. The event mixes speakers, musical performances, information tables staffed by various organizations, food and clothing vendors. Altogether there were about 30 different tables at the event divided between vendors and organizations. Food was being served by both professional food vendors and by organizations seeking to raise funds.

Demographically, nearly everyone staffing the tables was white and ranged in age from early 30s to early 60s. Tie-dye shirts and other signifiers of hippy culture were prominent, with the crowd decidedly more hippy than hip-hop in fashion. Attendees at the festival were also overwhelmingly white, although later in the afternoon there were some Latinos in the crowd (reflecting the wider demographics of Santa Cruz and Santa Cruz county). Attendees were also slightly younger than the people staffing the tables at the event. There were large contingents of high school students, college students and young families (with fathers in their 40s and mothers in their 30s). One interesting phenomena in the crowd was the presence of young people documenting the event on video and with cameras. At first, I was reticent to take pictures (for fear of looking like a cop/narc) but upon seeing various documentary makers in attendance, I began to feel less conspicuous with snapping pictures. Although, there were plenty of young people in attendance people in there 40s, 50s and 60s were also well represented.

WAMM Fest is hosted and run by two dynamic organizers who have achieved folkloric hero status in the drug policy reform movement, Valerie and Mike Corral. Valerie and Mike founded WAMM in the 1990s as a hospice and collective for medical marijuana patients in Santa Cruz County (Chapkis and Webb 2008). Between music performances, Valerie Corral took the stage to request that (tobacco) cigarette smokers move back beyond the portable toilets that marked the back boundary of the festival grounds, saying that WAMM didn't want cigarette smoking at the event. This is remarkable, because cannabis smoking was permitted at the event, which even featured a designated cannabis smoking section for qualified medical patients. Within two years, the designated smoking section for qualified medical cannabis patients became a prominent feature of commercially oriented cannabis events, presenting an opportunity for entrepreneurs to capitalize on a new commercial niche.

I attended WAMM-Fest in September 2008 and closely followed its travails regarding compliance with the City smoking ban the following year. In 2008, however the event was well attended and the crowd was in primed with pre-presidential election energy. Among the speakers at the event were local politicians who supported medical marijuana, activists from other parts of the state and an attorney who works to protect medical marijuana patients and collectives from legal action. One important cause at the WAMM-Fest (and two other events that I attended in the fall of 2008) was the case of Eddy Lepp. Eddy Lepp had been arrested by the Drug Enforcement Agency and was facing two life sentences for cultivating a large

number of marijuana plants. Although he grew the plants for a medical marijuana collective in Morro Bay, California, and was operating with the blessing of local law enforcement personnel, the federal judge that was trying his case would not permit him to mention this during his trial. Lepp's trial bears some similarities to the trials of other medical marijuana growers, regarding both the prevention of a medical marijuana defense by the judge and the mobilization of activists around supporting the defendant.

Lepp gave a speech to publicize his case and rally support. His presence and his situation highlight the precarious legal position of medical marijuana providers with regard to federal law. Despite having the blessing of the local sheriff and the city of Morro Bay, Lepp was not immune from federal prosecution. In fact, the judge even prevented Lepp from mentioning his status as a medical marijuana provider during his trial. During his speech, Lepp asked supporters to send letters of support to Judge Judy Patel and to visit the website EddyLepp.org for ore information.

In addition to Lepp, other speakers at the event led the crowd in songs and chants. Most notably, local city council member Tony Madrigal gave a rousing speech meant to highlight the power that medical marijuana patients and advocates have as voters. After a speech that highlighted his goals as a city council member, he led the crowd in a chant, saying: "When I say WAMM, you say power. When I say patient, you say power! When I say voter you say power! When I say community, you say power!"

Seattle HempFest 2009

The Seattle Hempfest in 2009 was the largest hemp rally ever. The Seattle event has been growing every year since its inception in 1991. In 2009, over 300,000 people attended the event over two days. Perhaps the most prominent feature of the Seattle Hempfest is its size. In 2008, 310,00 people attended the event and in 2009, StoptheDrugWar.org estimated that even more people packed in to Myrtle Edwards Park for the two day affair. The park stretches roughly two and a half miles along the Seattle waterfront, just north of Downtown. The site is spectacular, with Olympic National Park across the Puget Sound and Mount Rainier visible to the south. Seattle's iconic Space Needle is visible nearly the length of the park.

The event is visually overpowering and at times overwhelming. The scenic beauty of the site serves as the backdrop for the press of the thronging crowds that animate its central promenade. The serpentine park becomes filled with rollicking crowds who amble through in groups of two to ten. Although not everyone is smoking the many who do crown the two main thoroughfares of the park with hazy clouds of pungent pot smoke. The event featured a security check at the entrance and a first aid tent to assist with medical emergencies.

Hundreds of food, clothing, and glass vendors lined the two-mile long path that snakes through the festival grounds. In addition to vendors, the event also featured numerous booths staffed by various drug policy reform organizations, local medical marijuana advisory groups, and the six festival stages of varying size. The six stages exhibited musical acts and speakers throughout the day.

Crowd

The Seattle Hempfest is both local and national in its scope and attendance. Attendees, vendors, speakers and organizations come from all over the country. Most people in the young crowd were local, while some travel long distances to attend. Speakers and organizations are both national and local in scope. As at many such events, food vendors were often of local origin. Many glass pipe and bong vendors were also relatively local, with Washington and Oregon well represented. Clothing vendors were largely from the West Coast.

The crowd appeared to be primarily composed of young people. College aged young adults, followed by older teenagers were the largest groups in attendance. Many came to the festival in small groups ranging from four to ten people. Young adults in their twenties and thirties were also prominent in the crowd. To be sure, people in their 40s, 50s and 60s were also well represented. It was also not uncommon to see parents in their 40s and 50s attending with their teenage or college age children and relatives.

Social networking on multiple levels was prominent at the event. For local people and people from the Pacific Northwest, the event served as somewhat of a reunion. Throughout the day, I was surprised by screaming and shouting followed by long hugs as old friends reunited joyously. I also noted that the small crowds that milled through the crowd would often encounter old friends that would be recruited into their groups.

In addition to serving as a forum for the reunions of friends (both local and long lost), the fest also provided an opportunity for the leaders and luminaries of the movement to enjoy camaraderie, discuss strategy and reconnect with one another. Because the fest facilitates the face-to-face interaction between key figures in the drug policy reform movement, it serves as a key site for the integration and solidification of social relationships that bind this somewhat disparate movement together. While setting up the booth I staffed before the festival grounds opened one morning, I witnessed several key figures in the marijuana movement gathering together to smoke a joint. The founder of NORML, Keith Stroup, and a high ranking member of another prominent national organization, joined with Ed Rosenthal and Jack Herer to smoke a joint, talk, and laugh. Such informal gatherings strengthen the bonds of solidarity in a movement industry that is typified by competitive battles for funding, national media prominence, and dues paying members. As movement leaders and staff mingle with one another, give speeches and participate in panel discussions, they are able to strategize, recount victories, define struggles and hash out differences and disagreements. With its six stages for speeches and several large tents for panel discussions, the event also served as a key site for representing the discourse of reform, challenging that of punitive prohibition and inspiring newer recruits and older participants alike.

The Movement and the Market, Folkloric Heroes

There is quite a bit of variety represented by the vendors and organizations at the event. Some organizations and vendors have professionally designed booths that

would like quite normal at trade shows. While others booths have a homespun look, and bare a familial resemblance to the booths one would find at a craft or artisan fair. The growing number of corporately designed and well-polished booths at the event speaks to the financial success and market potential of some of the exhibitors and vendors.

I noticed some key distinctions between the two main types of booths at the event; organization booths, and vendor booths. Overall, food, clothing and paraphernalia vendors greatly outnumbered social movement organization booths at the event. SMO tables also seemed less popular with the crowd. In addition to being sparsely visited, most SMO tables that I visited featured tow to three brochures or handouts, a sign up sheet with e-mail list, and usually two representatives from the organization. With the exception of the Cannabis Action Network booth, most SMO booths featured only literature with no merchandise for purchase (although a few sold only t-shirts or stickers). Despite this, SMO logos covered the main stage and their leaders were well represented among the numerous speakers and panelists at the event.

In addition to SMOs and vendors one special type of vendor was also present at the event. Two figures that represent what I will call “movement celebrities” were selling books and signing autographs at the Fest; Jack Herer and Ed Rosenthal. Herer was a longtime activist in the marijuana movement. He authored what many activists describe as their call to arms, an expose flavored book called, *The Emperor Wears no Clothes*. In the book, Herer argues that the cannabis plant is an important source of

food, fiber, fuel and medicine. The subtitle to the 1991 edition, is “The Authoritative Historical Record of the Cannabis Plant, Marijuana Prohibition, and How Hemp Can Still Save the World.” Ed Rosenthal, first became famous as a featured columnist in the magazine *High Times* and the author of several marijuana gardening manuals. Later, Ed was a medical marijuana cultivator appointed by the city of Oakland to produce cannabis for patients in the Bay Area.

Two activists I interviewed mentioned the importance of the magazine *High Times* and Jack Herer’s book *The Emperor Wears No Clothes* in forging their desire to become marijuana policy activists. Both talked about writing research papers for High School and College based on Herer’s book, and one noted that he became aware that people were trying to change marijuana laws through the magazine *High Times*. “Jim” (an activist and medical cannabis dispensary employee) put pictures from the magazine in his locker at high school and discussed using marijuana “safely” with his peers. He also found out about the Seattle Hemp Fest from the magazine. He considered his attendance at this event to be seminal in his career as an activist. Similarly, “Sebastian” (the partial owner of a large medical cannabis dispensary) became aware that events to change drug policy existed through the magazine:

In late 1992 I was sitting on my couch and reading *High Times* and noticed that it discussed events that were going on six months ago...so I wondered, what’s going on now? If this is what was happening six months ago, then what’s happening now? I wanted to get involved in what people were doing now.

Shortly after that, “Sebastian” was in San Francisco, when he saw the sign for the “Cannabis Center and Hemporium” and decided to go in. It was then that he met some of the people that he had read about in the magazine. Soon, he was participating

in actions that he had only read about before. Both Sebastian and Jim mentioned the importance of the book *The Emperor Wears No Clothes*, to their careers as activists. Sebastian told me that the author of the book, Jack Herer, played a major role in the marijuana law reform movement.

These iconic figures represent an interesting feature of the drug policy reform movement and the wider drug subculture in the U.S.; within the movement these individuals are celebrities with name brand recognition, but outsiders have likely never heard of them. In addition to being underground celebrities, they also play an important role in the drug policy reform movement. Many consider them heroes and are inspired by their deeds. Fans and admirers crowd their tables at hempfests and conferences to purchase their books, meet and converse with their heroes, and possibly get an autograph. By populating the same mythical universe, such iconic figures help knit the culture of the drug policy reform movement together. In addition to providing a mythical touchstone for the movement, such figures also spread practical and mythical knowledge. Both forms of knowledge are key ideological resources for the marijuana movement.

Folkloric heroes, including Jack Herer and Ed Rosenthal, supply the movement with subaltern knowledge. Ed Rosenthal's has disseminated forbidden knowledge about cannabis growing for nearly three decades. By presenting this practical knowledge, he has contributed to the ability of activists and entrepreneurs to produce their own cannabis. Knowledge of growing techniques allows cannabis consumers to become producers, which provides the wider culture of drug users with

the key material and symbolic resource of the wider cannabis movement; cannabis. Herer's impact has been more political and less practical, by presenting a manifesto on the benefits of hemp as "food, fuel, and fiber," Herer has contributed a transformative resource to the marijuana movement's ideology. His work helped to revitalize a new generation of activists during the largely dormant phase of NORML in the late 1980s. By moving beyond the earlier frame of personal freedom and sensible government, Herer imbued younger participants during the second phase of the marijuana movement with an ecological and semi-religious frame for cannabis activism. The near deification of hemp as a solution to problems ranging from feeding the planet, producing paper and building materials in a sustainable manner, and providing nature's perfect medicine reinvigorated the marijuana branch of the DPRM at its nadir in the latter half of the 1980s.

On the official website of the event, the organizers of the Seattle Hempfest contend that the Seattle Hempfest is simultaneously a party, a political rally and a concert. Arguably, the most political feature of the Hempfest is the numerous speeches given by activists, leaders, experts and policy makers. Movement scholars have frequently noted the importance of speeches both for what they tell about a movement's goals, victories and setbacks, and for what they show about the structure of a given movement. As Polletta (1998) argues, speech events are important for showing who gets to speak for a movement.

In the drug policy reform movement, being a speaker is a badge of honor. Speeches play a very important role in the drug policy reform movement. Because

drug users are stigmatized and criminalized, inspirational speeches that inspire pride and strengthen resistance are key to forming an activist political identity from a formerly stigmatized and marginalized identity. Events like the Seattle Hempfest provide a public forum for individuals to discover and embrace the political dimensions of their identities as drug users. By turning a marginalized identity into a basis for political action Hempfests serve as vital sources for producing activist consciousness (McAdam 1982) and for recruiting new members to the movement.

There were some notable differences between the first and second days of the festival. The Sunday crowd featured more older people than the Saturday crowd. The event also started out more slowly on Sunday and it featured more families as well. In addition to its size another remarkable feature of the event was the orderly comportment of the crowd. Although the event was very crowded, there were no reported incidents of violence. While cannabis use was widespread at the fest, alcohol, dogs and weapons were prohibited. The security staff at the front gate inspected bags upon entry to prevent people from bringing in alcohol and weapons. The treatment of the two most popular recreational drugs by the Police and security staff was a direct reversal of the way these two substances are treated outside the unique time and place of the festival. Perhaps due to this inversion a norm of mellowness and non-aggression pervaded the violence free festival.

Commercial Events

Outside the wide spectrum of cannabis and hemp rallies, a new form of event that shares more in common with industry trade shows has recently arrived on the

scene. Events such as the International Cannabis and Hemp Expo (which I attended in 2010), “HempCon,” and the newest arrival “Kushcon” are more focused on the commercial dimensions of the burgeoning medical (and non-medical) cannabis industry. Although some movement organizations, “table” at these conventions by setting up tables to distribute literature, sell merchandise and solicit contact information, the presence of SMOs is dwarfed by the number of vendors selling cannabis grow supplies (including tractor trailer size grow rooms, lights and fertilizers), clothing and cannabis paraphernalia. Hempfests and rallies, convention style events and conferences, however, do all feature medical cannabis dispensary booths. Medical cannabis dispensaries send representatives to all three types of events, where they distribute advertising fliers and sell promotional items such as T-shirts and lighters. Perhaps fatigued by the rampant commercialism of dispensary booths, one drug policy conference in California barred dispensaries from purchasing sponsorships and tabling at their event in the spring of 2010.

Conferences

In addition to hemp rallies, which are more local in scope, conferences provide important sites for interaction, networking and communication in the DPRM. While hemp rallies serve as venues for invigorating and increasing participation in the movement and for making political statements by means of civil disobedience (public marijuana use) among masses of participants and new recruits, conferences provide the movement with additional benefits. These include the face-to-face interaction of the leadership of various organizations, the polished presentation of frames, strategies

and accomplishments through speaking events, and panel discussions. The events serve as important forums for education and information diffusion. As important venues for networking, conferences can solidify the bonds that increasingly characterize Internet based relationships and campaigns, and also serve as venues for the experience of collective emotions.

Several of the largest organizations in the DPRM hold national conferences on an annual or bi-annual basis. NORML and Students for Sensible Drug Policy hold national conferences annually, and the Drug Policy Alliance holds its “International Drug Policy Reform” conference every two years. Additionally, SSDP hosts a series of regional conferences every year at college campuses across the country. Most conferences feature a similar format; a mix of panel presentations and discussions, speakers (keynote, plenary and luncheon, workshops (for networking and action on campaigns), awards banquets, and parties. One auxiliary feature of conferences is that they provide after hours social events for attendees that serve as key sites of face to face interaction, networking and information exchange. By serving as important sites for networking, broadcasting, and educating, conferences represent key repertoires for the drug policy reform movement. They also represent important sites for movement activity.

In addition to rooms for speakers, panels and workshops, all of the conferences I have attended also featured “exhibitor halls” where between twenty to thirty organizations and vendors set up tables that feature the organization’s free literature, staff members or volunteers to answer questions about the organization,

and the organization's merchandise. Conference attendees can sign up to join the e-mail lists of organizations, which facilitates future Internet participation in the movement. In addition to organizations, exhibitor halls also feature vendors that sell books, clothing and magazines.

NORML Conferences

NORML conferences also feature representatives from the businesses capitalizing on the increasingly commercial dimensions of the medical marijuana phenomenon; companies that sell computer software and insurance targeted at the industry. All three NORML conferences have featured a combination of organizations and vendors, while the exhibition hall at the DPA conference was restricted to organizations only. Panels and speakers discuss a wide variety of topics, and their orientation varies from educational, to strategic to self-reflexive. The panels and speakers at the past three NORML conferences have discussed issues related to cannabis use, policy and reform, while the DPA International Conference on Drug Policy Reform conference focused on a wider variety of topics related to drug policy and reform. The SSDP conferences I've attended focus on how students can influence drug policies both inside and outside academic institutions. Academic knowledge is held in high regard at DPRM conferences; panels frequently feature scientists and scholars of drug use and policy from a variety of fields. By discussing the successes, setbacks and future campaigns conferences place attendees in the heart of the action, allowing them to see where the movement has been and where it is going. NORML, DPA and SSDP conferences all feature panels and speakers that

reflexively discuss the organizations and conference attendees as active participants in a social movement. This reflexive quality allows conferences to serve as important sites of movement critique, correction, and growth.

At the 2008, 2009 and 2010 NORML conferences, a variety of SMO staff, sympathetic academics, political figures, celebrities and guests from ally organizations populated the panel discussions and speaking podiums of the three-day events. One important feature of the past three NORML conferences is their location on the West Coast. Although NORML is headquartered in Washington, D.C., its past three conferences have been in the much more cannabis friendly cities, of Berkeley (2008), San Francisco (2009) and Portland (2010). By having their conference in these cities NORML allows its members from states such as Florida, Oklahoma, and Ohio the ability to experience what legal arrangements more favorable to cannabis distribution (i.e. the Dispensary system of California) look and feel like. By giving tours of dispensaries in Oakland and Berkeley the conference and its sponsors afford a glimpse of the possible to activists who live in locations that are very far from legal distribution models.

Each year's NORML conference has a specific theme; 2008 was "It's Not Your Parent's Prohibition," 2009 was "Yes we Cannabis!" and 2010 was "Just Say Now!" The 2008 and 2009 conferences held in Berkeley and San Francisco, focused prominently on California being at the forefront of marijuana policy reform and its panels and speakers frequently discussed medical marijuana as a model for legal cannabis provision. Highlighting medical cannabis in California, the 2008 conference

featured panels titled, “California NORML: Law Reform and Activism in the Golden State,” “Oaksterdam USA: Cannabis Freedom is Closer than You Think,” and “Medical Marijuana, Best Legal Practice.” Other panels discussed “Pot Culture,” “The Politics of Marijuana and Health,” and “Drug Testing and Cannabis Use.”

The 2009 NORML conference in San Francisco also focused on medical marijuana, primarily in California, but also in Michigan, Colorado and Oregon. The 2009 conference also discussed the move to full legalization, featuring panels and debates about the strategic timing of the push for legalization, framing the move as a revenue stream for governments and a way to ameliorate the violence inherent to the drug trade in Mexico. The 2010 NORML conference in Portland, Oregon was specifically focused on two impending ballot initiatives, Proposition 19 in California and Measure 74 in Oregon, the launch of NORML’s Women’s Alliance and the death of longtime activist Jack Herer. The tensions between medical marijuana advocacy and the advocacy of total legalization were evident throughout the conference.

According to the program for the 2010 conference:

Clearly there is still a mix of both ‘medical’ and ‘legalization’ initiatives and legislation across the country, and part of this 39th annual NORML conference is to mark the observable tipping point: from an epoch of advocacy for medical access to one of cannabis legalization for responsible adult use.

Despite panels and upbeat conversations about the imminent success of Proposition 19 and Measure 74, both measures failed to pass in the 2010 election shortly after the conference.

The “International Drug Policy Reform Conference” 2009

In contrast to the cannabis focused NORML conferences, the Drug Policy Alliance hosts a conference that brings together activists, organizations, academics, and policy makers working toward a variety of drug policy reforms at the local, national and international levels. There were over 1,000 attendees from over 22 countries. In addition to featuring a more diverse selection of issues the attendees at the conference were more diverse than NORML attendees on a variety of measures. Where NORML conferences are largely attended by a bimodal age distribution of college students and an “old guard” of baby boomers, DPA’s conference featured people of all ages and many young professionals working in the treatment, policy and research fields. The DPA conference attendees were also more ethnically diverse than the mostly white attendees at the NORML conferences.

The list of panels and roundtables at the 2009 conference in Albuquerque spans a variety of policy arenas (from the local to the global), substances, and issues (treatment, education, research) for the various constituents of this increasingly diverse movement. Some panels were more esoteric in their concerns and focused on specific substances, including the panels titled “Ayahuasca: Traditional Uses and Modern Adaptations” and “Ibogaine: Medical Practice, Science, and African Heritage.” Many panels were focused on marijuana, including panels titled, “Marijuana’s Cultural Moment,” “Marijuana Messaging that Works,” and “Imagining Victory: Make Your Own Marijuana Regulation Model.” In fact marijuana prohibition and reform, medical marijuana and the cultural representation of

marijuana were the most prominent issues at the conference. The panels also featured some self conscious and self-referential panels concerning the composition of the movement and its overall direction. This mix of panel topics from the academic to the strategic to the self-referential indicates that the DPRM is coalescing as a social movement. This connective work is necessary because the movement is not typified by a uniform set of policy concerns or constituents.

According to various attendees, the 2009 International Drug Policy Reform Conference represented a special moment for the movement. Several of the panels discussed the issues of representation, a gender gap and the issue of racial and ethnic disparities in power within the movement. Two panels in particular were important and somewhat contentious sites for the negotiation of class, race and gender based privilege and discrimination within the movement. At this particular conference, issues of representation and equality were central concerns as the movement continues to broaden its membership and the types of policy reforms it embraces. From brief discussions with some long-term actors in the DPRM, I discovered that the broadening of the movement's base has been a relatively recent phenomenon and that a diversity of people and issues was not always the norm within the movement.

Struggles over representation, power and who speaks for whom have been important in several left leaning movements from Feminism to Environmental movements (Moghadam 2009). The well documented rift between White middle class (second wave) feminists and feminist women of color in the late 1970s and 1980s were directly referenced by panelists and attendees in both the "Formerly

Incarcerated People” roundtable and the “Moving the Movement Forward: Examining Gender in Drug Policy Reform” roundtable discussion. During the gender panel, the atmosphere grew very tense on several occasions, and several people left the room. From discussing the issue of representation with several conference attendees, the drug policy reform movement has been reluctant to address these tensions in the past.

This conference represented a turning point with regard to the issues of racism, sexism and differential access to representation and power. Although not always devoid of tension, the DPA conference should be lauded for addressing these issues openly. It seemed that the people at the conference were attempting to bring the rifts of the past into the open, to address them and move forward with eyes open to the continuing ways that racism and sexism can penetrate movements that are focused on social justice. In order for the drug policy reform movement to sew together the various constituencies working for drug policy reform, such work must occur.

At this conference, when concerns over racism, sexism, and homophobia were brought into the open, there was often an effusion of emotion. People stood up and shouted at the panelists. One woman was so overcome that she stood up and stomped her feet, then squatted down and repeatedly clenched and unclenched her fists at the panel, to support another Latina who was asking, “where are my people on this panel?” At the same panel, during the question and answer section, another woman

asked, “the white women on the panel” about the issue of fund raising and how they had been successful in their efforts.

One of the most electric panels that I attended at the conference was titled “Formerly Incarcerated Persons, Policy Reform and Movement Building.” The panel was composed of people from a variety of organizations focused on restoring rights to formerly incarcerated people, including A Better Way Foundation (Hartford, CT), All of Us or None (San Francisco, CA), and WORTH (New York City). According to the conference brochure, these organizations have been successful on a number of fronts, including “‘Banning the Box’ in California and Connecticut, voting rights reform in Alabama and Louisiana, and sentencing reform in New York and New Mexico.” This panel had an entirely different feel to it than any other of the panels that I attended. At times audience participation was so spirited that the panel took on the appearance of a Black Baptist church. Panelists consciously embraced this metaphor. Early on, the moderator asked everyone in the audience who was a formerly incarcerated person to stand up. After about 30 people stood up, he asked everyone who knew a formerly incarcerated person to stand up.

One purpose of the panel was movement building. The panel was intended to connect formerly incarcerated people with one another and to unite them across different physical and legal geographies. The movement of formerly incarcerated people presented themselves as a “movement for self-determination.” The panelists identified the prison industrial complex as the institution that they were working

against. They asked people to look at the nexus between crime, punishment and profit.

The panel focused on the issue of increasing their representation of formerly incarcerated people in the movement and using the drug policy reform movement as a platform for networking and organizing around the issue of criminal justice reform and increasing rights for former prisoners. A central concern of the panelists was creating a national dialogue about the rights that formerly incarcerated people have, and the continued efforts of politicians to deny them rights. One panelist stated that they didn't come to the Drug Policy Alliance conference as tourists, "but to do organizing." This statement reflects the multi-faceted nature of the conference. It not only serves as the site for publicizing the successes of the drug policy reform movement and connecting people across diverse arenas of policy concerns, but also serves as the site for doing organizing work.

Emotional Dimensions of Conferences

What surprised me the most about the Drug Policy Alliance's 2009 "International Drug Policy Reform" conference in Albuquerque, New Mexico was the emotional dimension. I didn't realize that the rituals (the awards dinner and the closing plenary) would be such emotion-rich affairs. Although good will and occasional tension characterized the panels, roundtables, and general mingling and networking of the conference, two events in particular stood out as the proper forums for collective emotions. At the 2009 International Drug Policy Conference Awards Banquet, I was struck by the collective emotions that were coursing through the

room. In addition to the formal programs at conferences (speakers, panels, presentations and awards ceremonies), numerous small parties and social events help to form the affective bonds that help movements to succeed with regard to their reproduction and success.

The Awards dinner was one of the most important rituals of the conference. Awards banquets date to the conferences held by the DPA's organizational predecessor, the Drug Policy Foundation in the 1980s (Reinarman personal communication 2009). The event was a ritual and an occasion for collective emotional participation by all those in attendance. The event was formal, tickets cost \$95, and the meal was a multiple course affair. The conference awarded a total of eight awards for a variety of areas of drug policy reform. Each award is named for a luminary in the various fields of drug policy reform. According to the program:

The biennial awards for achievement in drug policy reform recognize the accomplishments and commitment of people and organizations who have done outstanding drug policy reform work.

The different types of awards given cover several arenas of drug policy reform. The Edward Brecher Award, "honors those in the media who question official drug war propaganda." The Alfred Lindesmith award "recognizes scholars like Alfred Lindesmith, whose personal courage and quality of published research constitutes a source of rational inspiration for all who labor in drug policy scholarship." The Robert C. Randall award "for Achievement in the Field of Citizen Action," honors citizens who make democracy work in the difficult area of drug law and policy reform." The "Norman E. Zinberg Award, "recognizes medical and

treatment experts who perform rigorous scientific research and who have the courage to report their findings even though they may be at odds with current dogma.” The H.B. Spear Award “is given to those involved in law enforcement who have demonstrated a balanced regard for the needs of enforcement and human compassion.” The Justice Gerald Le Dain Award “is given to those involved in law who have worked within official institutions when extremist pressures dominate government policies.” The Andrew Weil Award “was first given in 2005 and is to recognize those involved in drug education who have promoted honest science-based drug education in place of ineffective scare tactics based on myths and deceit.” The Richard Dennis Drugpeace Award, “is given to the individuals who most epitomize loyal opposition to drug war extremism.”

These awards represent a historically rich record of drug policy reformers in action. Both the people that the awards are named for and the past recipients of the awards exhibit the history of drug policy reform and provide a road map of drug policy reform. The diverse types of fields represented show that drug policy reform happens in a variety of fields and is a complex endeavor. Drug policy reformers come at the project from a variety of occupational locations, including the fields of journalism, academia, medicine, government, criminal justice and civic engagement.

At the start of the awards banquet, DPA director Ethan Nadelmann remarked that there were going to be tears and there was going to be laughter. There were occasions for collective anger and collective horror (gasps) collective sympathy (during Montel William’s speech). Gasps rippled through the crowd, sympathetic

(awwws), and people would tear up when the speakers started to break up on stage. While accepting the “Edward Brecher Award for Achievement in the Field of Journalism” Montel Williams’s speech was one of the most powerful. He said that although we had all come to the conference for different purposes, and with different goals that we all had the same underlying reason for being there (pause) compassion. This statement seemed to resonate with the crowd. He also expressed anger at the government, citing his service in the military, and the government preventing him from accessing the form of medicine that is most effective for his condition. By serving as a venue for collective emotions, the awards banquet integrated and re-energized movement participants, providing them with a renewed drive to continue their efforts. The inspirational quality of the event was palpable.

The Internet

Like other social movement organizations (SMOs) working in the Digital Age, the Drug Policy Reform Movement (DPRM) has utilized emergent Internet based technologies to recruit members, communicate among supporters, raise money, lead boycotts, lobby politicians and protest the actions of government agencies and corporations. Longer tenured organizations (primarily the National Organization for the Reform of Marijuana Laws) pre-dated the rise of the Internet and have seen the biggest change in their activities since the mid 1990s (St. Pierre Personal Communication 2010). The Internet provides a vital fund raising tool to organizations and their campaigns, and also serves as a platform for educating proponents and supporters about new campaigns and the harms of drug prohibition

and the activities of its opponents. Additionally, the Internet has become the site for launching protests, signing petitions and visibly showing solidarity through social networking sites like Facebook. These factors show how the Internet augments earlier repertoires of movement contention.

Although the Internet has greatly increased the ability of SMOS in the DPRM to be successful in their efforts and to broaden their bases for popular and financial support, many detractors of Internet based activism continue to exist (Milner 2010). The biggest critique of Internet based activism is that it only creates the illusion that supporters are actually working against the evils of drug prohibition (or homelessness or sweatshop labor conditions). According to this critique, actual on the ground direct action is replaced by computer based “slack-tivism” to the detriment of any real concrete protest. To continue, when activists sign an electronic petition or agree to boycott the Kellogg’s corporation on the Internet, they then feel that they have “done something: which prevents them from engaging in more meaningful forms of protest such as street protest or writing an actual paper letter to a politician.

Despite the legitimacy of these critiques, they are premised on an antiquated notion of the public sphere and an elitist conception of “engaged citizenship” (Milner 2010). An analysis of how the DPRM uses Internet based activism can both describe how social movements use the Internet as a tool and provide a mirror to reflect the ways that political action occurs in the digital age. Perhaps what is most novel about the Internet is its speed and connectivity. This connectivity, first described by Spanish social theorist Manuel Castells (2004), is what provides the Internet with the

ability to serve as a space for political action an alternate digital public sphere that does not exist in physical space, but magically provides a way for supporters to interact with one another in a (semi) public forum. The advent of social networking sites such as Facebook adds a public and social dimension to Internet based activism, by allowing participants in drug policy reform to publicize their involvement to the “friends” in their social networks.

These Internet sources are not fundamentally different from earlier forms of social movement communication, such as mailing lists, telephone trees and calling campaigns. However, in important ways the Internet provides social movements and social movement organizations with communication capabilities that direct mailing and telephones would have rendered too expensive and less effective. The first difference concerns the speed of Internet communication relative to earlier forms that depended on the post. The second important difference concerns the cost of Internet based communication. Compared to mailings and phone campaigns, Internet based communications are cheaper to produce, more rapid and able to take advantage of being newsworthy, topical and current. Highlighting the importance of Internet based communication to the DPRM, two conferences I attended over the past year featured panels that discussed the importance of Internet technology to the movement and NORML director Allen St. Pierre remarked that the Internet was a huge catalyst for change at the 2010 conference.

In their discussion, of the role of the Internet in collective action, Hick and McNutt (2002: 9) view “[t]he evolution of electronic advocacy...as a series of

transitions or steps, with each new technology displacing, but not eliminating older methods.” The use of Internet technologies by DPROs follows this pattern.

Organizations augment their use of older technologies such as e-mail with the use of newer technologies including Facebook and other social networking sites and Youtube channels. However, the Internet also serves as one forum for factional squabbles within the DPRM. The heated debate over the ballot initiative to “tax and regulate cannabis” (Proposition 19) took place in a variety of digitally and physically mediated forums. On the Internet, debates raged on a variety of blogs and sites, and the chief opponent of the measure from within the movement used their website to organize their opposition to the ballot initiative.

For analytic purposes, it is useful to separate the various forms that Internet activism takes into the following categories; e-mail (including messages about awareness campaigns, membership renewal drives and fund raising activities), website based action (lobbying, petitions, boycotts), and activity that takes place on social networking sites (such as Facebook) and on the website Youtube. Warkentin (2001: 78) details how the environmental organization Greenpeace uses streaming video and audio to “bypass conventional media’s editorial processes.” As new technologies are added to the Internet, the DPRM will continue to add them to its repertoire.

E-Mail

The first and longest tenured Internet technology used by organizations is E-mail or electronic mail and the use of listserves (e-mail rolodexes). In many ways e-

mails sent out to listserve subscribers update the “direct mailing” approach, (pioneered by the New Right) used by SMOS in an earlier era. By superseding earlier forms of communication technology E-mail expands the movement’s repertoire of contention. However e-mail differs from its pre-digital age predecessors in several important regards. First and foremost it is much more cost effective to send out a mass e-mail to everyone on a listserve than it is to send out a direct mailing to everyone on a mailing list. There are no stamps to buy, no envelopes to stuff and lick, and no stationary to print out. After interviewing NORML director Allen St. Pierre, my suspicions about the importance of the Internet to the DPRM were confirmed. He responded that the Internet was instrumental in expanding the communication capacity of movement organizations. He gave the example of how expensive and time consuming it used to be to rely on direct mailings for communication. Detractors argue that e-mail (and Internet based activism in general) is less effective than “snail” mail, because e-mails are easily ignored, disregarded or deleted from inboxes. There is also the danger that SMOs can saturate potential donors and supporters with too many e-mails, which can lead to activist fatigue or a sense that nothing can be done (Tools and Strategies fro NORML Chapters and Grassroots Activists 2010).

If Internet based e-mails differ in form from their snail mail predecessors, they are decidedly similar in function. Like direct mailings, many of the emails that are sent to listserves are of the fund raising variety. Such e-mails usually feature a description of a problem that an SMO is trying to address (often framed a specific

way) and a request for a lobbying action or financial support from members to combat said problem. This was often the goal of earlier direct mailings, but unlike earlier mailings supporters can instantly provide funding support to organizations by visiting an organization's website and donating via credit card. There is no lag, no need for SMOs to wait for a check to arrive through the mail; a supporter can instantly donate to an organization, and fund drives can be conducted for shorter durations (usually a day or a week) to sustain maximum participation. As evidenced by the masterful use of the Internet's fundraising capability by the Obama campaign in 2008, drug policy organizations can increase their ability to raise money through the Internet. This quality is an important question to explore in future research. E-mail has grown in importance as e-mail messages have added the capacity to link to websites and webpages.

Facebook

The website Facebook has taken the Internet by storm. With over 800 million users worldwide, the site has become a multifaceted platform for online profile creation and sharing. The site integrates personal, commercial, political and cultural dimensions of users' online identities. Facebook played an integral role in facilitating the Arab spring pro-democracy demonstrations in Tunisia and Egypt that began in late January of 2011 (Giglio 2011). For businesses, the commercial dimension of the site allows product advertisers to target users based on the personal information they share. Facebook users have diverse and often overlapping motivations for using the site: publicizing their consumption of popular culture and commercial goods as a way

to represent their online identities (exposing themselves to targeted marketing by advertisers in the process); interacting with friends, family and co-workers; publicizing their political views and information related to these views. For DPRM organizations and participants, the site serves as a platform for the framing and broadcasting of information, action, mobilization, recruitment and de-stigmatization. By broadcasting their participation in the movement, participants make clear to friends, family, and co-workers that they oppose punitive prohibition; a stance they may feel uncomfortable making in person.

As a key new site for movement activity, Facebook revolutionizes how organizations reach movement participants. As supporters “like” an organization’s online profile (by finding the organization’s online profile and clicking on the “like” button), they receive regular updates from the organization on the “news feed” page of their profiles. After a Facebook user “likes” one organization’s profile, the site recommends other drug policy reform organizations (both national and local) for users to like. As a fan of several DPRM organizations, including NORML, ASA, DPA, MPP, SSDP, and LEAP, I receive updates from these organizations in my “news feed” several times a week.

Facebook provides a single place for the publication of drug policy reform information; in effect it is a central clearinghouse for information from various organizations. This quality makes it a novel and useful addition to the repertoires of contention for the movement. Instead of having to check numerous individual websites for updates, Facebook users receive updates from multiple organizations in

their “news feeds,” facilitating the centralized dispersion of information. Although Mondays are big days for DPRMO e-mails and Facebook posts, organizations use the site throughout the week to broadcast events, highlight and editorialize news stories, launch lobbying campaigns and boycotts and publicize the harms of drug prohibition.

Many of the organizations on the site feature links to op-ed pieces, online petitions, blogs and organizational websites (including “action center” pages specifically designed to facilitate the targeted lobbying of specific policy actors). By providing brief headline treatments of news stories and campaigns, the site redirects users to the websites of organizations, news sources and web pages set up to facilitate fund raising and lobbying. Medical cannabis dispensaries, businesses that blur the line between drug policy reform and commercialism, also use Facebook to advertise, portray themselves in a favorable light and engage in political activism.

What sets Facebook-based activism apart from earlier forms of Internet activism is its social dimension. As people participate, their participation becomes public to people in their network, which allows for agreement (and disagreement), debate, and solidarity. This dimension has three important effects; a ripple effect by publicizing campaigns and news, which generates interest and debate, a social solidarity effect where participants can apply subtle social pressure to the people in their social networks, and a de-stigmatization effect that comes from the (semi) public demonstration of anti drug war politics. The “news feed” function of Facebook provides DPRM participants with a virtual soapbox to broadcast news, protests, lobbying efforts and events to fellow participants, potential new recruits and friends

and family members who are in their social networks. Although a variety of social movement organizations and political interest groups use Facebook as a platform for activism and information dissemination, the medium allows participants in the DPRM to advocate for change in drug policies, a politics that is stigmatized and ridiculed by both the state (Office of National Drug Control Policy) and corporate media (Partnership for a Drug Free America). By providing activists with a forum to agitate for drug policy reform, Facebook users who participate in the DPRM are able to publicly (re)claim a potentially stigmatized identity in front of the friends, family members and colleagues that are privy to their postings on the site.

In short, Facebook provides organizations with the ability to keep their subscribers abreast of the latest lobbying concerns, the portrayal of information about these reforms and a forum for activists and participants to communicate and demonstrate their commitments to the movement and one another. Although the social dimension of Facebook activism may seem subtle, it has important ripple effects in publicizing news stories, campaigns, successes and failures and generating discussion and debate. The social dimension of Facebook activism is also augmented by offline contact at conferences, rallies, meetings and protests. In this way the website increases the sway of these other repertoires of contention.

Table 3.2: Drug Policy Organizations and the Internet:

Organizations	Full Name	Facebook Fans (as of 2/23/11)	YouTube Channel
DRC.net	Drug Reform Center	7,454	Yes
NORML	National Organization for the Reform of Marijuana Laws	269,779 “likes”	Yes
DPA	Drug Policy Alliance	9,015 “likes”	Yes
SSDP	Students for Sensible Drug Policy	14,615 “likes”	Yes
ASA	Americans for Safe Access	1,827 “likes”	Yes “Safe Access”
LEAP	Law Enforcement Against Prohibition	39,439 “likes”	Yes

Examples of Internet Campaigns

Although these various types of Internet-based action are distinct, organizations often use them in concert with one another in a somewhat redundant manner. This stems from how inexpensive and easy it is to use multiple platforms. An organization will often highlight the same effort through e-mail, on their websites, on the Facebook website and with Youtube videos. Despite being the longest tenured form of Internet activism, e-mail has continued to evolve through providing hyperlinks to other websites. In a single e-mail message an organization can provide links to news stories, fundraising web pages, web pages that serve as lobbying platforms, and web pages that feature audio or video content. Additionally, in the DPRM, various organizations often duplicate the efforts of other organizations in the movement. As multiple organizations work on the same campaigns, they bring the efforts of their diverse yet likely overlapping constituencies to bear on various efforts. To illustrate the cooperative yet competitive orientation to Internet activism in the

DPRM, I discuss will now discuss four specific campaigns: the Michael Phelps-Kellogg's incident; the push to stop DEA raids of medical marijuana dispensaries under the Obama administration; the drive to pass Proposition 19 to "tax and regulate" cannabis in California; and the publication of an attempt by the Office of National Drug Control Policy to influence the editorial content of the *Seattle Times*.

Michael Phelps Incident and Kellogg's Boycott

When eight-time gold medalist Michael Phelps was photographed smoking cannabis in South Carolina in late 2008, activists turned the ensuing media coverage (which broke in February 2009), Suspension by USA swimming, and dropping of Phelps as an endorser by the Kellogg corporation into an opportunity for action. The Kellogg Corporation issued a statement saying that Phelps's behavior was "not consistent with the image of Kellogg." USA Swimming suspended Phelps and issued the following statement (as quoted in Macur 2009):

We decided to send a strong message to Michael because he disappointed so many people, particularly the hundreds of thousands of USA Swimming member kids who look up to him as a role model and hero.

Despite this stigmatization, Phelps became a cause celebre for the DPRM. After the Kellogg's corporation dropped Phelps as a sponsor for his publicized cannabis use, DPRMOs sprang into action. Students for Sensible Drug Policy (SSDP) sent an e-mail advocating the boycott of the cereal giant that featured a list of all the companies owned by Kellogg on February 6th. A few days later the Marijuana Policy Project (MPP) also advocated a boycott in an e-mail message with the subject heading "Dump Kellogg's like they dumped Michael Phelps." Stop the Drug

War.Org provided the phone number of the Kellogg's corporation and asked supporters to call the company to register their displeasure at them dropping Phelps as a sponsor. A week later MPP sent another e-mail with a link to a video of MPP spokesperson Bruce Mirken discussing Phelps on CNN. The MPP e-mail also solicited donations and provided a link for supporters who wished to make a one-time donation of ten dollars. These e-mails show how various organizations work cooperatively on the same campaign while still competing with one another for financial contributions. This finding comports with my earlier analysis of the DPRM as a social movement industry in chapter two.

One month later, on March 18th the Drug Policy Alliance sent an e-mail with the subject heading, "Kellogg's is Ignoring You." The message provided a link to DPA's Action Center to contact the Kellogg's corporation. The Action Center is a web page that sends pre-written messages to legislators, officials and corporations about specific issues. Supporters can visit the action center page enter their name, address, and e-mail address to send a pre written message to the individuals selected for lobbying. With Kellogg's the action center message concerned the corporation not heeding requests to reinstate Phelps as a sponsor for the corporation. Three months after the Phelps incident broke, MPP sent an e-mail with a link to the website Business Insider featuring a story showing that Kellogg's had hurt the reputation of its brand by dropping Phelps as a sponsor (Carlson 2009). The handling of this seemingly minor incident by reform organizations shows that the Internet provides a

vehicle for organizations to mobilize supporters to boycott a company that stigmatized a celebrity's cannabis use.

Influencing the Obama Administration's Medical Cannabis Policy

On the morning of October 19th, 2010, I received two e-mails notifying me of a major victory for the movement, the release of a memo from the department of Justice, stating that Federal law enforcement authorities (specifically the DEA) would discontinue the policy of raiding medical marijuana dispensaries. The first was from the Marijuana Policy Project, and it came in with the subject heading, "Yes, we did. Obama ends medical marijuana raids in 13 states." The e-mail from MMP characterized the release of the memo as, "the most significant, positive policy development on the federal level for medical marijuana since 1978." The message also noted the role of MPP in helping to bring about the change in policy, arguing that their representatives had been lobbying the administration and the Justice Department to codify the change in policy that the Obama administration had alluded to in both campaign promises and post-inauguration speeches. The e-mail from MPP states:

MPP was the only reform organization to testify on Capitol Hill urging the issuance of the guidelines and, later, was the only group to work with leaders in Congress to get a House committee to urge the administration to adopt the written guidelines. Our lobbyists have also been in contact with top officials at the Justice Department about the guidelines.

This message shows how the organization used the release of this memo as an occasion to celebrate success, highlight its role in instituting the new policy and to solicit financial contributions from both active and spectator constituencies.

Later that morning, I received a message from the Drug Policy Alliance with the subject heading, “Medical Marijuana Victory.” The message demonstrated the importance of the news as a symbolic victory and an occasion to solicit further member contributions:

Today we have something huge to celebrate. All your calls and letters to the White House this year have paid off: The Obama administration just announced that it's directing federal drug agents not to arrest or harass medical marijuana patients who comply with state laws. Your determination to hold the administration accountable turned campaign promises into official policy. Congratulations! Donate now to turn this momentum into more medical marijuana victories.

Both messages demonstrate an attempt by organizations to benefit from topical stories

and the excitement they can generate when the Internet multiplies the Internet.

Future research could explore the impact of such e-mails by looking at the relationship between them and changes in fundraising. One question is whether good news or bad news is more generative of financial resources.

Proposition 19 Campaign

Various DPR organizations use the Internet cooperatively to facilitate successful campaigns. This was illustrated by how different organizations trained their efforts on the passage of Proposition 19 in California in 2010. Proposition 19 was an initiative placed on the November 2010 ballot that would have legalized the small scale cultivation and possession of up to one ounce (28.5 grams) of cannabis for adults over the age of 21. The initiative also allowed for the taxation and regulation of cannabis by counties in the state. Ultimately the initiative was approved by 46.5%

of the electorate and failed to pass (California Proposition 19, The Marijuana Initiative 2010).

On the mornings of October 4th and 5th, 2010 I received six e-mails from various organizations working toward the successful passage of Prop. 19. Based on estimate of the number of people on the e-mail lists of these organizations between 80,000 to 100,000 people likely received one of such message. Different organizations were advocating different tactics to approach the goal. I received e-mails from Yes on Prop. 19, Law Enforcement Against Prohibition (LEAP), the National Organization for the Reform of Marijuana Laws (NORML), the Drug Policy Alliance (DPA), SAFER (from Colorado) and Students for Sensible Drug Policy. All of these e-mails were explicitly related to garnering support for Proposition 19 and many featured a similar message and the ability to link to organization websites. In addition to sending e-mail messages, all of these organizations made regular posts on their Facebook pages in support of Prop 19 during the lead-up to the election and they discussed the proposition in videos posted to the website Youtube.

One organization, Yes on Prop 19, used e-mail in conjunction with their website and Facebook to raise funds for the effort. The Yes on Prop 19 e-mails were direct fund raising efforts that attempted to get recipients to visit a special page on the organization's website to donate pre-specified amounts of money to the campaign. The organization also publicized this campaign with posts on their Facebook page and videos explaining the urgency of the fund drive posted to Youtube. Using the language of "crunch time" and "digging deep," Yes on 19, framed their fund drive as

an eleventh hour push to raise 75,000 dollars on the first day that permanent absentee voters were able to mail in their ballots. According to the e-mail:

It's crunch time. Everyone at Prop 19 headquarters is digging deep -- fourteen hours a day, seven days a week -- to make sure folks mail in their ballots and get to the polls to end cannabis prohibition in California. But to do this effectively takes serious resources. That's why we've set this \$75,000 goal for today -- and I hope you'll help us reach it. Please make a generous contribution to the Yes on 19 campaign before midnight tonight. If you chip in \$15 or more, we'll send you a bumper sticker; if you contribute \$50 or more, we'll send you a t-shirt. Today is absolutely crucial to our success. The politicians and the establishment want to see Prop 19 fail -- but luckily, this is in the hands of the voters.

In addition to imbuing this fundraising campaign with a sense of urgency, this message also implies an uphill battle that frames the efforts of politicians to defeat the proposition as being out of touch with the will of the voters. This appeal reflects the lack of political will on the part of elected officials to institute drug policy reform.

The Seattle Times and the Office of National Drug Control Policy

During the last weeks of February 2011, the response of the Office of National Drug Control Policy to an editorial in *The Seattle Times* became the latest opportunity for a Facebook based campaign for drug policy reform. On February 18, 2011, *The Seattle Times* published an editorial that began:

Marijuana should be legalized, regulated and taxed. The push to repeal federal prohibition should come from the states, and it should begin with the state of Washington. (Seattle Times 2011).

The editorial then discussed reasons why the Seattle legislature should pass HB 1550, a bill that would regulate and tax cannabis in Washington State. As reported in the online version of the Seattle free weekly paper, *The Stranger*, shortly after the editorial ran the head of the Office of National Drug Control Policy, (also known as the Drug Czar), Gil Kerlikowske contacted the Seattle Times editorial board to schedule an in-person meeting to discuss his displeasure at their publication of the pro-legalization editorial. The title of the article on the online version of *The Stranger* alleged, “White House Requests Meeting with *Seattle Times* to Bully Against Pro-Pot Editorials” (Holden 2011). Along with roughly 30,000 others, I became aware of ONDCP’s actions after a link to *The Stranger*’s story was posted to my “news feed” by the organization MPP on Friday February 25th. A few hours later a “friend” in my network re-posted the story, which then re-posted to my “news feed.” The Seattle Times editorial staff was not intimidated by ONDCP either. They published another editorial in favor of legalizing cannabis the following Friday, February 25th., authored by former Seattle Police Chief and current member of Law Enforcement Against Prohibition (LEAP), Norm Stamper. The reach of this second editorial was then further amplified by DPRMOs including MPP, DPA and LEAP who posted it to their Facebook pages, reaching roughly another 40,000 people.

Although publicizing the actions of Kerlikowske and the ONDCP with regard to the Seattle Times on Facebook amplified the reach of The Stranger's story, calling attention to the anti-democratic tactics employed by ONDCP, MPP and several other organizations did not stop there. MPP and the Drug Policy Alliance used their Facebook pages to advocate for The Seattle Times to publicize their scheduled meeting with the Drug Czar via webcast. To facilitate this call, MPP and DPA called for supporters to sign an online petition calling for a webcast of the meeting through posts on their Facebook pages. After clicking on a hyperlink titled "Marijuana Policy Project: Survey – Petition the Seattle Times to live-stream Drug Czar Meeting" that came up in my "news feed" on Monday February 28th, with the headline, "We need your help! Please share this with as many people as possible," I was sent to a webpage on MPP's website with an electronic petition that asked for my full name, e-mail address and zip code. The petition read:

We, the undersigned, are shocked that the nation's Drug Czar is planning to travel to Seattle to use his official authority to try to influence and change the public position of the Seattle Times editorial board on the subject of taxing and regulating marijuana. Putting our shock aside, we see this as an educational opportunity. U.S. citizens deserve to know how their elected officials are using their money. They also deserve to know what the Drug Czar says behind closed doors to defend a system that is truly causing far more harm than good. With all of this in mind, we respectfully request that you, the Seattle Times editorial board, live-stream your upcoming meeting with the Drug Czar, so that we are able to participate virtually in the conversation. It will be an historic event in many ways. Thank you so much for considering this important request. (Petition the Seattle Times to live-stream Drug Czar meeting 2011).

At this time, the reaction of ONDCP to this position is unknown. This case shows that the actions of drug control actors are under a microscope and that activists can

expose heavy-handed tactics by drug control actors to scrutiny on a mass scale through Facebook and other forms of Internet-based activism. The ability to subject the drug policy industrial complex to intense scrutiny in real time (with no lag time for direct mailing), adds a new capability to the repertoire of contention available to drug policy reformers.

Conclusion

By shedding light on how the DPRM constitutes itself in space and cyberspace I hope to contribute to an area that has not been well studied in social movement scholarship. In the spaces of hempfests, conferences and the Internet, movement participants and organizations shape drug policy in concert with one another. Despite the number of organizations working toward drug policy reform, and their competitive orientation to one another, at hempfests, conferences and the Internet allow organizations and participants to network, communicate and facilitate education, lobbying and activism campaigns. These distinct sites allow for the DPRM to integrate itself, providing venues for collective communication, collective emotions and collective action. Hempfests serve as venues for reaching new participants and exhibiting the movement's strength in numbers. Conferences are important sites for providing the DPRM with an emotional component, reaffirming the commitment of dedicated participants to compassion and sustaining their drive to work to end the injustices of drug prohibition.

The Internet is the most novel site for movement constitution and provides new tools in the movement's repertoire of collective action. Social networking sites

imbue Internet activism with a social dimension and amplify the work of organizations. Whether or not the Internet will provide the forty-year old Drug Policy Reform Movement with the set of tools necessary to make significant changes to drug policy in the movement's fifth decade is an important question for future research. By rapidly increasing the rate of information dissemination, communication, and lobbying the Internet represents a key new addition to the Drug Policy Reform Movement's repertoire of contention. Whether this new addition will be enough to dislodge the intransigencies of punitive drug prohibition, remains an important question for future research.

Chapter IV: The Birth of Medical Marijuana in California

By far, the biggest success of the drug policy reform movement has been the passage of medical marijuana laws in seventeen states and the District of Columbia. In 1996 California became the first state to approve a medical marijuana law when voters passed the ballot initiative, Proposition 215. According to several movement leaders, the victory of 215 was a breakthrough moment for the drug policy reform movement. Building on the momentum of the event, drug policy reform organizations were successful in similar campaigns in several other states over the next four years. In 1998 voters in Oregon, Washington, the District of Columbia, and Alaska approved similar medical marijuana initiatives, and Maine and Colorado followed in 1999 and 2000 respectively. State legislators in Hawaii became the first state to adopt medical marijuana through legislation in 2000 (Ferraiolo 2004).

In California a coalition of marijuana activists collaborated to author a controversial initiative, known as the “Compassionate Use Act,” in 1995. After getting the language of the initiative approved by the California Secretary of State, California NORML and several grass roots cannabis organizations (including the Cannabis Action Network) worked to gather signatures to put the initiative on the ballot. When this group failed to secure enough signatures, Ethan Nadelmann, the director of the Drug Policy Alliance, persuaded three mega-funders to contribute to the campaign. This meeting led to the formation of a political action committee known as Californians for Medical Rights. With professional signature gatherers, a savvy campaign, and television advertising and proposition 215. 56% of

California's electorate voted in favor of proposition 215 in November 1996 (Zeese 1999). Government officials at all levels began to assail the passage of the law almost immediately (House of Representatives 1997). The Office of National Drug Control Policy, for example, began a campaign to hamstring the law almost immediately but the inchoate medical marijuana movement was able to parry this with aplomb.

Several research questions guide my exploration of the birth and early development of the medical marijuana movement in California. What allowed this movement to take root in the San Francisco Bay Area in the first half of the 1990s? How did the movement relate to the wider drug policy reform movement and what role did social movement organizations play in its genesis and early development? What tools did activists use and what was the reaction of local city governments to this radical new modality of drug policy reform?

This chapter uses political process and resource mobilization theories to explain the origin and expansion of the medical marijuana movement in California during the 1990s. I rely on the work of earlier authors and researchers, archival materials, social movement literature and interviews with participants to demonstrate the importance of both political context and "resource mobilization" to the birth and early development of the movement. Although political context is important in determining the early growth of the medical marijuana movement, the efforts of activists are crucial in shaping the form the movement takes and in actively shaping the future political opportunity structures the movement confronts in the late 1990s and 2000s. The role of activism, and other forms of agency, are underemphasized in

political process theory and the concept of political opportunity structures. To correct this oversight, I seek to emphasize the importance of activism and civil disobedience to both capitalizing on and expanding political opportunity structures.

Theoretical Lenses

To explore the importance of the Bay Area to the formation of the early medical marijuana movement I will employ several key insights from political process theory. I expand on the concept of “political opportunity structure” from political process to separate and analyze the key components of the movement’s early survival and eventual success. According to Political Process theorists, the major determinant of a social movement’s success is the political opportunity structure of a given locale. With medical marijuana in California, this has largely been the case. The movement first caught on in San Francisco, then in nearby Santa Cruz and next-door Oakland (Bock 2000; Chapkis and Webb 2008). Before it grew into a statewide effort to legalize the provision of marijuana for medical purposes, activists in these isolated locales risked arrest to provide the plant to people suffering from AIDS, cancer, and other conditions (Reinarman et al. 2011). After the law went into effect, a new political opportunity structure emerged; the cultivation and use of marijuana under the direction of a physician was now legal according to state law. How have local politics and local “political opportunity structures affected the provision of medical cannabis since the passage of California’s medical cannabis law? What contributes to the successful implementation of city level medical cannabis policies?

The term “political opportunity structure” is somewhat vague and could mean multiple things. Eisinger (1973) lays out several propositions based on an empirical study of protest behavior in large American cities during the 1960s. He terms the political context of protest emergence as the “structure of political opportunities.” Later political process theorists translate this concept to “political opportunity structure.” For Eisinger (1973: 11) the “structure of political opportunities” includes “such factors as the nature of the chief executive, the mode of aldermanic election the distribution of social skills and status, and the degree of social disintegration, taken individually or collectively, serve in various ways to obstruct or facilitate citizen activity in pursuit of political goals.”

Later versions of political process (Tarrow 1998) are dialectical and dynamic in noting that movement activity (and the activities of counter movements) often alter future “political opportunity structures” for both existent movements, the state and counter movements (Gale 1986). One important contribution of the model is the view that social movements are processes and not discrete events. Charles Tilly (1978) revised and elaborated the approach in *From Mobilization to Revolution*. Tilly expanded Eisinger’s (1973) focus on city level political opportunity structures to the national level. McAdam (1982) provided a detailed application of political process theory to his historical analysis of the U.S. Civil Rights Movement. Costain (1992) employed a longitudinal perspective to examine the emergence of the women’s movement. Other scholars have analyzed political opportunity structures comparatively (Kriesi 1995).

To clarify what constitutes political opportunity structure with regard to the provision of medical marijuana, it is useful to separate the concept into its constituent components. Several key factors play a role in determining whether or not a given locale is hospitable to the provision of medical marijuana. Foremost among them are federal, state and local laws. The orientation of local law enforcement agencies toward marijuana and medical marijuana also affects political opportunities. County district attorneys and county sheriff's departments all influence the shape cannabis policy takes. Officials in city government also form a key component of the political opportunity structure for medical marijuana provision. City councils, city police departments, mayors and commissions formed to deal with medical marijuana influence whether or not dispensaries exist, the number of dispensaries that open, how many plants patients and caregivers are allowed to grow and how much cannabis patients are allowed to legally possess. In several Bay Area cities, activists and advocates sit on city commissions and task forces, forging working relationships that balance the concerns of city officials with those of cannabis patients. Such commissions are the outcome of earlier activism, demonstrating that activists can further open the political opportunity structures they will encounter in the future. In many cities and counties in California, however, local governments have effectively closed the political opportunity structure for medical marijuana activists by passing dispensary bans.

In addition to local law enforcement and city government personnel and the stances they take toward medical marijuana, the local business community and the

press also play a key role in shaping the features of medical marijuana in a given locale by providing advertising and a favorable business climate. These features of political opportunity structure are relatively stable, but the structure of political opportunities are dynamic and subject to influence from social movements. Medical marijuana activists shape the political opportunity structures through advocacy, local ballot initiatives, activism and lobbying. From an early stage in the medical marijuana movement, participants helped shape their opportunities through participating in local and state politics.

Literature on New Reform Modalities

Several earlier scholars of drug policy reform have focused on the importance of political and social contexts to the emergence of new policy modalities. Chapkis and Webb, for example, contend that the Santa Cruz's location was integral to the development of WAMM, organized as a true cooperative as opposed to a storefront dispensary. Similarly, Sherman and Purchase show the importance of cooperation among a variety of local officials was crucial to the survival of the nation's first public needle exchange. While Ferraiolo (2004; 2007) does not explicitly acknowledge the unique locale of the San Francisco Bay Area to the birth of the medical marijuana movement, her analysis of the success of Proposition 215 in California draws extensively from the theoretical insights of political process. She focuses on the role of ballot initiatives (part of the political opportunity structure of California) and the use of "framing" by drug policy reformers to successfully pass Proposition 215. Ballot initiatives are a very important tool for organizations and

activists seeking to change drug policies. At both the state and city levels, initiatives foster better working politics between the supporters of new drug policies and government officials by clearly defining regulations and roles to help with the navigation of policies that chart new ground.

In their qualitative analysis of one of the oldest medical marijuana organizations in the country, the WoMen's Alliance for Medical Marijuana (WAMM) Chapkis and Webb (2008) state:

The improbable success and survival of the Wo/Men's Alliance for Medical Marijuana, achieved in the midst of an intensifying federal War On Drugs, can only be understood as by locating it within the specific social setting and the particular cultural/political mind-set of the people of Santa Cruz, California (P. 47).

Beyond comporting with the "mind-set" of people in Santa Cruz, "WAMM has operated in full compliance with state law, with the explicit endorsement of local public officials, and-following a change in sheriffs-in close cooperation with local law enforcement" (p. 47). This quote highlights the importance of local political opportunity structures, as measured by support from key local government and law enforcement personnel. However, WAMM formed prior to the passage of Proposition 215, and its early existence stemmed from the willingness of its founders Valerie and Michael Corral to break the law to furnish Valerie, and then many others, with medicine necessary to her survival. Civil disobedience, courageous activism, and a favorable political climate were both necessary to the formation and survival of the organization.

Chapkis and Webb also discuss the importance of a movement “spillover” effect, where two related movements and their traditions contribute to the success of WAMM. They theorize that the:

feminist women’s health care organizing and the AIDS activism - both at the local and national level - inform WAMM’s structure, mission and practices...[by]...leaving in their wake organizational and ideological resources...(Chapkis and Webb 2008: 50).

The AIDS movement is also connected to medical marijuana, as many people with AIDS depend on medical marijuana to treat wasting syndrome, nausea from anti-retroviral drugs, and pain. Indeed the overlap between the AIDS movement and the medical marijuana movement was very pronounced with the movement’s emergence in San Francisco. Although Chapkis and Webb discuss the importance of Santa Cruz and movement spillover to the success of WAMM, they do not systematically outline what it is about Santa Cruz that contributes to the success of WAMM.

Sherman and Purchase (2001) provide a more explicit account of favorable political opportunity structures. Although they are focused on analyzing the birth of a needle exchange program (NEP), their insights are crucial to my analysis of political opportunity structures with regard to medical marijuana (specifically the provision of medical marijuana through delivery services and storefront locations). To illustrate the particular conditions, which contributed to the establishment of a NEP in the Western US, the case of Purchase and the Point Defiance program he founded are instructive. Importantly, Point Defiance was the first publicly funded, not just legally tolerated needle exchange in the U.S. Point Defiance arose outside the public health system, largely through the efforts of Purchase, a former injection drug user and

community activist. Although Sherman and Purchase (2001) state “there is nothing unique to the city of Tacoma as to why it housed the US’s first publicly funded NEP” (p. 46), they allow that the work of three men and a politically amenable climate contributed to the establishment of the exchange.

Key elements of this politically amenable climate were the cooperation of Tacoma’s Mayor, its Chief of Police, the Health Department director, and its County Commissioner. During the spring of 1988, Purchase called these local political actors, not to request funding or ask for their blessing, but as “courtesy calls to individuals whose support was vital to the existence of an exchange (2001: 47).” According to Purchase, “The bravery, the real bravery was on the part of Doug [the mayor], Al Allen [Health Department Director] Joe Stortini [the Country Commissioner] and the guy who was against us on the city council, Greg Mykland. These people had political and professional careers on the line. I know for a fact that some of them lost long-time friends over it.” The rationale given by the mayor for his support of the program was “we’re not giving them whiskey, we’re giving them a clean glass. If they get sick from dirty glasses, we’ve got to pay for that.” This argument, an economically based public health argument, provides one way for political actors to view needle exchange.

Although Sherman and Purchase contend that there was nothing unique about Tacoma, their success contrasts sharply with the failure of harm reductionists to institute needle exchange programs in New York and San Francisco, at roughly the same time. In New York, a SEP pilot program had to contend with hostile African

American and Latino community leaders who suspected that the SEP was a racist experiment (such as the now infamous Tuskegee syphilis study), rigid legal requirements, (including syringe limits and the requirement of photo identification cards), police harassment, and a poor location-next to police headquarters. In New York City, SEP advocates faced the daunting task of exchanging enough syringes to serve New York City's large IDU population, in all likelihood the nation's largest at around 200,000 (Des Jarlais 1994).. In San Francisco, a NEP called Prevention Point began in 1988. It was tolerated by the city and county of San Francisco, but encountered legal problems because it violated the state of California's drug paraphernalia laws. A group in Portland, Oregon would have established a SEP pilot project before Purchase had they not been denied liability insurance. Purchase had not run up against any of these impediments, which allowed for a very different type of syringe exchange to develop in Tacoma.

The ability of Purchase to successfully navigate the nexus of political opportunity structures to open Point Defiance demonstrates the variegated dimensions of local political opportunity structures and his ability to nurture positive relationships with city officials. The counter examples from New York and San Francisco highlight obstacles to such opportunities. With regard to medical marijuana, mayors, city council members (or supervisors), police chiefs, public health departments, city attorneys, district attorneys, and local media all represent the human face of political opportunity structures. Local, state, and federal law and the court decisions that address their nuances form the non-judicial side of political opportunity structures.

To address the ways that the medical marijuana movement was able to place the ballot initiative that eventually became Proposition 215 on the ballot, historian Kathleen Ferraiolo argues that the opportunity structure provided by ballot initiatives allowed drug policy reformers to successfully use their advantages in an alternate venue to pass California's medical marijuana law in the 1996 election. According to Ferraiolo (2004):

...[I]nitiative policy making and lobbying benefit different actors with different sets of political resources. Whether it is used to achieve liberal, conservative, or libertarian ends, in initiative politics, money, campaign skills, and sophisticated advertising trump lobbying savvy and policy expertise....[I]n initiative policymaking, the public audience at which policy advocacy is directed and the campaign environment in which policy making take place benefit entrepreneurs skilled at policy *marketing* rather than policy formulation or deliberation. In initiative campaigns, medical marijuana advocates were able to separate the question of medical use - an idea that received strong support in public opinion polls - from the more controversial issue of recreational use. These policy entrepreneurs were successful in large part because they cast the debate over medical marijuana around issues of patient rights, treatment options, common sense and compassion. Opponents in the law enforcement community and anti-drug groups struggled with little funding, and little sophistication about how to exploit the features of initiative politics, to communicate their criticisms of medical marijuana measures. (P. 12-13).

Ferraiolo's work analyzes the success of the professionalized Prop. 215 campaign in presenting an image of cannabis as therapeutic and not dangerous. Her groundbreaking scholarship answers important questions about the success of the early medical marijuana movement and their use of the ballot initiative process.

Ferraiolo's work serves as a scholarly companion to the journalistic treatment of the early medical marijuana movement provided by Orange County register editor Alan Bock. Bock (2000) introduces many of the key players in the medical

marijuana movement, and he artfully describes how they fit into the story of Proposition 215 in California. His point of departure is that California is geographically, socially and politically diverse and that the nature of support for medical marijuana is different in different parts of the state. His treatment of the medical marijuana movement provides a comprehensive and biographically rich narrative of medical marijuana in California. His focus on the machinations behind Proposition 215, and the role of the wider drug policy reform movement in providing a crucial financial boost, provides important incidents to explore in greater sociological detail.

Taken together the work of Bock (2000), Ferraiolo (2004; 2007), and Chapkis and Webb (2008) provide substantial discussion and analysis of the birth and growth of the early medical marijuana movement. However, their work leaves some important questions unanswered. While Ferraiolo's insights are invaluable in elucidating how the ballot initiative was imperative to the DPRM's success with medical marijuana, she does not focus on the role of activists and organizations in drafting the measure, and the early fight to place it on the ballot. I incorporate her analysis of state level ballot initiatives into my discussion of local ballot initiatives in changing local political opportunity structures. Similarly, the assertion by Chapkis and Webb that medical marijuana could only take root in Santa Cruz, ignores the connections of the Santa Cruz branch of the medical marijuana movement to the movement's branches in San Francisco and Oakland. Sherman and Purchase provide

me with the tools to build a more comprehensive model of political opportunity structures.

Before Proposition 215

The cultural history and rich activist past of San Francisco contributed to the perfect set of conditions for the medical cannabis movement to take root. In the Bay Area, waves of social movements prepared the soil for the early growth of the movement. The medical cannabis movement in San Francisco sprang from the wider cannabis subculture and movement in that city. Two key figures in San Francisco's medical marijuana movement directly link the cannabis subculture of the 1970s to the medical marijuana movement of the 1990s, Brownie Mary Rathbun and Dennis Peron (Rathbun and Peron 1993).

In the early 1960s, the Civil Rights movement, the Chicano movement and the Free Speech movement (which originated at the University of California, Berkeley) signaled massive upheavals in the social order of the 1950s. In the latter half of the 1960s, the Anti-War movement, the Women's movement and the countercultural movement would continue the work of social and cultural change. In the early 1970s the Gay Rights movement would challenge the homophobia and persecution faced by gays and lesbians in America. The Bay Area was an epicenter for all these social movements, and the key site of action for the Free Speech, Hippie and Gay Rights movements. Although they became national in scope, these social movements had a profound effect on local politics in San Francisco, Oakland and Berkeley.

In addition to being important sites for the major social movements of the latter half of the twentieth century, cities in the Bay were also important sites for early efforts geared toward marijuana law reform. San Francisco was the key site for the counterculture movement. The movement's embrace of marijuana and the psychedelics were integral to its social integration and self-representation. Arguably, the Human Be-In, held in Golden Gate Park in January of 1967 provided a template for the hemp rallies of the marijuana movement. By featuring speakers and musicians, the historical event pioneered the formula that the later events would embrace. San Francisco's Haight-Ashbury neighborhood was also the iconic capitol of the counterculture in the late 1960s. A mass exodus in the early 1970s would scatter the seeds of the counterculture across Northern California (Lee and Shlain 1992).

The medical marijuana movement was not the first marijuana reform movement to begin in San Francisco. The city was also the birthplace of the early marijuana law reform movement. In 1964, libertarian lawyer James R. White formed the organization LeMar (short for Legalize Marijuana) to protest marijuana prohibition on the grounds that it was an affront to individual liberties (Anderson 1981). In 1970, Amorphia formed as the chief marijuana law reform organization working on the West Coast. Some important leaders, including Michael Aldrich, joined Amorphia after LeMar's demise. Aldrich was part of San Francisco's first marijuana co-op, which provided marijuana for sale in the early 1970s, an act in complete defiance of the law (Aldrich 2011).

Amorphia, which sold rolling papers to help finance political activism to legalize marijuana, provided the key organizational push behind the California Marijuana Initiative (CMI). When Amorphia and other grass roots organizers collected enough valid signatures to place the CMI on the 1972 ballot in California, it became Proposition 19. Because the radically worded initiative would have allowed for “free backyard dope” (Amorphia’s rallying cry), Washington-based NORML was initially reluctant to support the measure because it clashed with their organization’s embrace of the goal of decriminalization (as prescribed by the Shafer Commission Report). After the initiative failed to pass and Amorphia fell upon financial hard times, NORML incorporated the leadership of Amorphia into California NORML. Such leaders included Aldrich, and Gordon Brownell, a libertarian-leaning Republican from Southern California (St Pierre 2010). California NORML would re-emerge as a chief organizational backer of medical marijuana in the early 1990s.

Although the CMI only garnered one third of the vote, it inspired a grass roots cannabis movement in the Bay Area and Northern California that would sow the seeds for the medical marijuana movement in the early 1990s. In the 1970s Berkeley activists led two successful efforts to change city marijuana policy through city ballot initiatives. In 1972, activists worked to place the initiative on the local ballot as part of the state wide Prop. 19 campaign. Intended to make marijuana violations the “lowest priority” for law enforcement officers, the 1972 Berkeley Marijuana Initiative passed, but was voided by a local judge. In 1978, Berkeley marijuana activists including Dr. Tod Mikuriya put a second Berkeley Marijuana Initiative on the ballot,

which passed. The law lay largely dormant until activists with the Cannabis Action Network breathed new life into the initiative in the 1990s (Goldsberry Personal Communication 2011). In this way a later group of activists were able to capitalize on a change in the political opportunity structure forged by an earlier generation of cannabis activists. Despite their inability to capitalize on changing the law at the local level, marijuana activists in the 1970s changed the political opportunity structures for activists in the 1990s.

Similarly, activists from a variety of movements began shaping the political opportunity structures that a later generation of activists would capitalize on in San Francisco during the 1970s. Many of the people who had come of age during the 1960s embraced local politics to increase their rights and represent their interests in 1970s San Francisco. Through the charismatic leadership of New York transplant Harvey Milk, and the rise of the gay rights movement, San Francisco's gay and lesbian community was becoming increasingly politically active. In 1975, gays and lesbians joined a progressive coalition to elect George Moscone as San Francisco's first progressive mayor. In his analysis of San Francisco government, DeLeon (1992: 47) theorizes the existence of "three Lefts" in San Francisco politics, "liberals, environmentalists, and populists." In his 1975 mayoral campaign, Moscone was the first politician to succeed in uniting the "three Lefts." According to DeLeon (1992):

Moscone's campaign was a dramatic departure from San Francisco's political traditions. In building his grass-roots electoral coalition, he reached out for the support of neighborhood activists, high-rise opponents, African-Americans, Latinos, Asians, gays and lesbians, and other community groups previously neglected by establishment politicians. He attacked the pro-growth policies of Alioto administration and promised to end the Manhattanization of

San Francisco....A strong gay rights advocate and civil rights liberal, Moscone committed his administration to eliminating homophobia and racial prejudice in the city's departments and agencies. He also promised to use his appointments to expand representation of ethnic minority groups and gays and lesbians on the city's boards and commissions....In 1975, all of this seemed very new – a political breakthrough that inspired many citizens and threatened others. (P. 48).

Former police officer and city supervisor Dan White assassinated Moscone and Harvey Milk in November of 1978. Moscone was replaced by supervisor Diane Feinstein, a pro growth moderate who dismantled many of the left leaning gains made by the short lived Moscone administration. During the 1970s, as the gay community and other progressive leaning groups gained a foothold in city politics, Dennis Peron, a self described hippie and gay rights activist, and his friends opened a business that featured a “pot supermarket” first in a commune and later above a restaurant. This consortium of movements precipitated what Chapkis and Webb (2008) term “movement spillover,” as they were able to share resources and work through alliances that united people from diverse backgrounds as a progressive coalition. Peron started the Big Top in 1972, temporarily closed it after he was arrested in 1974, and re-opened it in late 1974. The “Big Top Pot Supermarket was a prominent feature of progressive politics in 1970s San Francisco. Rathbun and Peron (1993) discussed the political significance of the unique business:

It soon became a home for political change in San Francisco. It was a two-way feed, with the pot supermarket upstairs, supplying customers for the food downstairs. It was the only restaurant in the world where pot smoking was nearly mandatory....Tony Serra, having helped me beat my pot rap, used the restaurant for his favorite causes, including benefits for Judge Kragen, an elected radical judge...and Margo St. James, the famous founder of Coyote, an acronym for ‘call off your old tired ethics’ – better known as the

prostitutes' union. The restaurant continued for two and half years, sponsoring events for every hippie cause, from marijuana to saving the whales. During those years, there was great hope in SF. Carol Ruth Silver was running for DA, promising not to prosecute for marijuana or prostitution. She came close to winning....George Moscone, the liberal pro marijuana state senator, ran for mayor. Milton Marks, whom I'd met through Harvey Milk, became the first pro-gay state senator. When Tom Hayden ran for the US Senate we had a huge benefit for him....Ed Rosenthal signed the first contract for the *Marijuana Grower's Guide* over a caffe latte....Jerry Rubin had a book signing there... (P. 29-30).

The restaurant closed in 1977 and Peron was shot and then arrested while running the marijuana side of the business later that year. From jail, Peron organized a San Francisco Ballot Initiative W, to "totally make marijuana legal once and for all" (Rathbun and Peron 1993: 36).

Although the measure passed with 58% of the vote, after Moscone's assassination the initiative was forgotten by the Feinstein Administration (Rathbun and Peron 1993). With the appointment of Feinstein in late 1978 and the election of Reagan in 1980, the progressive ascendancy that characterized the 1970s in San Francisco was rolled back. To make matters worse, the AIDS epidemic began to ravage San Francisco's gay community in the 1980s. According to DeLeon (1993: 16, 190) by the early 1990s, San Francisco's gay and lesbian community was "estimated to range in size...from 10 percent to 20 percent of the city's adult population. Their numbers have been tragically reduced during the last decade by over seven thousand deaths caused by AIDS....the highest per capita death rate from the AIDS in the country." Although the "Big Top" was relatively short lived it provided a model for the San Francisco Cannabis Buyer's Cooperative (the SF CBC), which Peron opened in 1991. Similarly, as a gay activist mobilizing to address the

AIDS crisis in the early 1990s, Peron represented a powerful segment of San Francisco's medical marijuana coalition.

Another leading marijuana provider turned AIDS activist to emerge from the countercultural milieu of 1970s San Francisco, was "Brownie" Mary Rathbun. Somewhat older than the mostly baby boomers who typified the Haight and Castro neighborhoods, Rathbun provided marijuana laced brownies to Peron's Big Top in the 1970s. After she was arrested for baking brownies, the community service she was sentenced to completed grew into volunteer work with AIDS patients through the Shanti project (Rathbun and Peron 1993). This would lead her to volunteer in the AIDS ward of San Francisco's General Hospital, where she continued to provide marijuana brownies to people suffering from AIDS, despite two more arrests in Santa Rosa and San Francisco. She became a *cause celebre* in San Francisco, successfully used a medical necessity defense in court, and continued to advocate for the medicinal benefits of marijuana for people with cancer and AIDS. The discovery that cannabis relieved the symptoms of wasting syndrome for people suffering from AIDS and cancer caused Peron, Rathbun, and other activists to advocate for it being provided to those suffering from the disease.

The early medical cannabis movement was a direct outgrowth of earlier pro-cannabis politics in San Francisco. Two key figures, in the early medical cannabis movement, Brownie Mary Rathbun and Dennis Peron, were icons in the local cannabis movement long before AIDS patients began to use marijuana to combat wasting syndrome and nausea. In addition to a long thriving cannabis subculture in

the Northern California, San Francisco led the nation and the world in pioneering new venues for the open selling of cannabis. Dennis Peron pioneered the first venue for large-scale cannabis sales in the U.S.. This left Peron well situated to distribute cannabis for medicinal purposes through the SF CBC beginning in 1991.

Following the trend he set with Proposition W, Peron authored Measure P in 1991 in the wake of his arrest for marijuana possession. This time, however, the marijuana belonged to Peron's partner, Jonathan West who was very ill with AIDS. According to Peron (Rathbun and Peron 1993):

It was his life and death that inspired me and my friends to collect thousands of signatures to get Proposition P, the medical marijuana initiative on the November 1991 ballot. Because of our success in the election, we carried similar propositions up and down the state, which eventually led to Senate Joint Resolution 8. (P. 41).

In 1992, voters in Santa Cruz and Marin counties approved similar medical marijuana measures by large margins (77% in Santa Cruz). In 1993 the city councils of Morro Bay and San Luis Obispo approved measures supporting medical marijuana. SJR 8, a resolution calling on the Clinton Administration to remove marijuana from Schedule I of the Controlled Substances Act of 1970, would be victorious in both houses of the California legislature, but largely ignored in Washington D.C. (Bock 2000).

Proposition P had important effects on the political opportunity structure of the early medical marijuana movement in other important ways. In addition to the symbolic effects provided by the victory (as evidenced by the ripple effect it had), the success of the measure, and the tragedy of his partner's death inspired Peron to open

up the San Francisco Cannabis Buyers Club. In response to Proposition P, and Brownie Mary's theatrical trial in 1992, the San Francisco Board of Supervisors declared August 25, 1992 "Brownie Mary Day" in the city. The medical marijuana community held a rally at city hall to celebrate. With the momentum from Rathbun's notoriety, and the passage of Proposition P, the San Francisco Board of Supervisors approved Resolution 741-92 in August of 1992, which states, "[T]he San Francisco Police and the District Attorney shall place as its lowest priority, enforcement of marijuana laws that interfere with the medicinal application of this valued herb..." (Rathbun and Peron 1993: 47). Although the San Francisco CBC had opened the previous year, the new resolution allowed the club to expand its operations by moving to a much larger space.

Ballot initiatives have allowed the medical marijuana movement to alter "political opportunity structures" at the local level. Prior to the passage of Proposition 215, medical marijuana advocates used city ballot initiatives to shape how local governments and local law enforcement would treat medical marijuana patients and providers. One notable aspect of the SF CBC is that Peron opened the club after the passage of Proposition P, but the city did not explicitly change its policies with regard to cannabis enforcement until the passage of resolution 741-92, the following August. The cooperation of the city of San Francisco and the San Francisco Police Department was instrumental in allowing the SF CBC club to operate. They did this openly and in blatant defiance of state and federal drug laws. CA Attorney General Lungren eventually used the State Narcotic Task force to raid

Peron's SF CBC on August 4th 1996 (Martin 1996), almost five years after the club first opened.

In Santa Cruz County, voters approved Measure A in November 1992, shortly after the high profile trial of WAMM founder Valerie Corral. Corral was on trial in Santa Cruz for growing marijuana to supply herself with medicine, when the Judge ruled against her medical necessity defense, the campaign for Measure A contacted Corral to serve as the face of the measure in Santa Cruz. In light of the resounding success of the measure, the municipal judge dropped the charges against Corral. According to Chapkis and Webb (2008:43), "Measure A instructed the Sheriff's office and the district attorney to 'exercise discretionary powers ...to minimize the impacts of current drug laws in cases of medical use.'" Despite this call, the Santa Cruz deputies arrested Corral on cultivation charges, but the County District Attorney dropped the charges.

The success of Peron and Rathbun and favorable coverage of their activism in the news media, provided a beacon of hope to activists throughout the Bay area and beyond (Jones Personal Communication 2011). Noted medical marijuana activist Jeff Jones heard about the activities of Peron and Rathbun while he was living in South Dakota. His father had just passed away from cancer and he was shocked that Rathbun and Peron were able to distribute medical marijuana and avoid jail time. Hearing about their ability to successfully distribute cannabis to patients suffering from AIDS and cancer, inspired him to consider moving to California to participate in the burgeoning movement. He thought that the issue of medical use could move

cannabis law forward, while the “1960s baggage” had stagnated the wider move to legalize cannabis (Jones Personal Communication 2011).

Inspired by Peron and the SF CBC, Jones and several other activists (including the interviewee whom I refer to as Jerome) formed the Oakland Cannabis Buyers Cooperative to deliver medical cannabis to patients in the East Bay cities of Oakland, Berkeley, San Leandro, and Fremont in 1995. These activists used a car and bike delivery system to provide cannabis to patients who could verify medical conditions including cancer and AIDS. Like the San Francisco Cannabis Buyer’s Club, the Oakland Cooperative was engaging in civil disobedience by providing cannabis, before it was legal under state law. They charged a fee for cannabis to cover their costs and were inspired by the San Francisco Cannabis Buyer’s Club. Through interviewing its founder Jeff Jones, I discovered that they began delivering cannabis to patients *before* the city of Oakland passed several resolutions in support of medical marijuana. According to Jones, “we were actively dispensing by bike delivery in the middle part of ’95, and then got endorsed by the city council, here in Oakland, in the middle part of ’96....located on Broadway...in July of ’96, where we operated a provider collective until the feds shut us down in October of 1998.” Despite its relatively covert status, the Oakland Cannabis Buyers Club enforced membership protocols and sought to verify that the patients they were serving were diagnosed with serious medical conditions including AIDS and cancer.

When I asked whether he had received a “signal from the city” before opening the delivery service, Jones replied “a signal...came more from those who were

already doing things” (Personal Communication Jeff Jones Personal Communication 2011). The City of Oakland responded to the OCBC and the growing movement by declaring its support for medical marijuana in several resolutions. The earliest official support from the city came in December 1995. In a resolution dated December 12, 1995, the Oakland City Council voiced their belief in the medical utility of cannabis for treating the symptoms of cancer, AIDS, multiple sclerosis, glaucoma, arthritis, epilepsy and migraines. In Resolution 72379, the Council also stated its support for both California Assembly Bill 1529 “ the Medical Marijuana Bill” and the inchoate Compassionate Use Initiative of 1996 (Oakland City Council 1996b). This resolution established the City of Oakland as an early proponent of medical marijuana in the state. Oakland joined the city of San Francisco as being officially on record in support of medical marijuana. In a more daring move, the Oakland City Council made their support of the Oakland Cannabis Buyers Club known in a resolution dated March 12, 1996.

One reason why Oakland became an important site for the medical marijuana movement is the political opportunity structure of the city. Local leaders took a favorable approach to medical marijuana, which created a climate for activists to work cooperatively with the city in the future. Oakland’s political leaders made their support for medical marijuana known prior to the approval of the Compassionate Use Act by voters in November 1996. In the coming decade, Oakland would become the key city for pushing the boundaries of medical cannabis law. The city government came to embrace the growing movement, while other cities in California, including

Los Angeles, took a more hands off approach and some, including San Diego, took an obstructionist approach. I will revisit the different approaches taken to medical marijuana in greater detail in chapter five.

Other East Bay cannabis activists were also beginning to work with the burgeoning medical marijuana movement, including the grass roots organization Cannabis Action Network (CAN). When CAN activists moved to Berkeley in the early 1990s, they met with longtime medical marijuana advocate Dr. Tod Mikuriya. Mikuriya informed the CAN activists, including Debby Goldsberry, of Berkeley's long dormant marijuana laws, the Berkeley Marijuana Initiatives, and suggested they work to breathe new life into the law and make some of its provisions a reality. While CAN pushed the boundaries of the law in 1998, first they focused their efforts on passing the Compassionate Use Act in 1995 and 1996 (Goldsberry Personal Communication 2011; Jones Personal Communication 2011). Activists with CAN had played a critical role in bringing Jeff Jones to California, and they provided him with a place to stay upon his arrival. This demonstrates how an activist from an early generation of cannabis law reform (Mikuriya), encouraged younger activists to take advantage of a change in the political opportunity structure that had yet to be capitalized on.

The Compassionate Use Act becomes Proposition 215

Activists with CAN and the OCBC began meeting with other medical marijuana activists in the Bay Area, including Dennis Peron and others involved with the SF CBC (Jones 2012). They formed a coalition of activists working on drafting

and then gathering signatures for the Compassionate Use Act. The San Francisco CBC served as both the operational and symbolic headquarters for a group of activists in the burgeoning medical marijuana movement (Bock 2000; Chapkis and Webb 2008). This group, which consisted of AIDS and marijuana activists Dennis Peron and Mary Rathbun, Dale Gieringer of California NORML, and Mike and Valerie Corral of Santa Cruz's Wo/Men's Alliance for Medical Marijuana, and Jeff Jones from the Oakland Cannabis Buyers Cooperative, made important drafts of what would become the Compassionate Use Act (which eventually became Proposition 215) in 1995.

The Compassionate Use Act remains unique among medical marijuana laws for several important reasons. First the Act was drafted by a grass roots group of activists, many whom were already engaged in civil disobedience to provide medical marijuana to sick people. Second, the drafting of the initiative was a collaborative process, the final draft reached through long meetings. According to NORML's St. Pierre (Personal Communication 2010), such a radical initiative would never have been authored by professionally staffed advocacy organizations like the Marijuana Policy Project or Drug Policy Foundation. The Corrals were adamant about including provisions to allow patients and caregivers to grow their own medicine. The Act was also unique in providing broad language that allowed the creation of dispensing collectives in locales amenable to their existence. Subsequent medical marijuana laws in Oregon, Washington, Alaska and Hawaii did not provide for the existence of dispensaries.

The watershed event in the institutionalization of medical marijuana in California was the passage of proposition 215 in November 1996. This proposition effectively legalized - under state law - marijuana for medical use, although it did not provide for the legal provision of medical cannabis to patients. From my informants, I discovered that there were considerable tensions in the marijuana law reform movement with regard to mobilizing for the ballot initiative that would eventually become proposition 215. According to my sources, there were two main factions in the movement that clustered under two prominent movement actors who had been involved with marijuana law reform since the 1970s. The first luminary was San Francisco based Dennis Peon, and the other was Southern California based Jack Herer.

Herer was a long time hemp and cannabis activist who reluctantly brought his influence to bear on the medical marijuana issue. Herer was a leading light in the marijuana movement and had authored the hemp movement's "bible," titled *The Emperor Wears No Clothes*, in 1985. The book would inspire a new generation of hemp activists and revitalize the somewhat dormant marijuana law reform movement in the mid-1980s (Bock 2000). According to "Jerome" (Personal Communication 2005):

"After deciding to switch over from PIRG, I did some research and eventually got in touch with Jack [Herer]. I immediately thought he was flaky and eventually I got in touch with Josephine at CAN. They told me that if I could get out to Berkeley they would give me room and board in exchange for work. Discussion of Prop. 215 had just begun and the big concern was getting Jack and Dennis [Peron] to work together. The big debate was between medical versus comprehensive."

TH: So Jack had the comprehensive initiative, what did this entail?

J: Everything, hemp, recreation, the whole thing. One of the first things I did for CAN was going up to this big meeting in Ukiah. There were all these representatives of different factions there. It was very emotional, tears were shed, but it boiled down to us trying to get Jack to turn over to medical. Of course, we had started out wanting to change laws, but we eventually saw medical as a way to really make a difference. But the goal of this first meeting-the first thing that I did for the movement-was to convince Jack to get on board with medical.

Similarly, Sebastian mentioned the tensions between Jack Herer and Dennis

Peron. According to Sebastian:

Well, Jack ran CAN and he was the big SoCal guy, he was down in L.A. and he was in charge of Southern California and everybody knew that Dennis Peron was the queen of the San Francisco scene. So Jack had been running failed initiatives for years and years, every year. And 215 was Dennis's initiative, but other activists, Josephine and some lawyers were involved in it too. People agreed that change had to be made with Jack. There was a lot of infighting between Jack and Dennis. This had been going on since the 70s; it was a lot of ego issues. I mean Jack is kind of nuts and Dennis is a total queen. But everyone knew that everything ran through Dennis in San Fran. Dennis had been active since the 70s and was shot twice during this raid. And 215 was his initiative and at that point it wasn't called 215 because it wasn't on the ballot yet. But there was agreement that Jack wasn't getting it done and we decided that 215 was our chance. So we gathered signatures and got it on the ballot and it passed.

Jerome said that eventually he and other activists were able to convince Jack Herer to aid in the collection of signatures to get the Compassionate Use initiative on the ballot as proposition 215. A coalition of marijuana law activists gathered the 750,000 signatures necessary to get proposition 215 on the ballot beginning in 1995. In the accounts given by both Jerome and Sebastian, gaining the cooperation of Jack Herer and his ability to mobilize activists was instrumental in gathering enough signatures to put proposition 215 on the ballot. Although Herer's influence provided

an important contribution, ultimately, it was not enough to collect the necessary signatures to place the initiative on the ballot.

At this point in the story, the theoretical insights of Resource Mobilization theory illuminate the role of marshaling financial resources in placing the Compassionate Use Act on the ballot. In Resource Mobilization theory, grievances and grass roots activism are de-emphasized. According to resource mobilization theorists, the ability of organizations to successfully marshal resources is the crucial determinant of social movement viability and success. According to Bock (2000: 17) getting an initiative on the ballot in California in 1996 required 562,000 signatures, and “it takes about \$1 million in some combination of payments to professionals and the time of volunteers, to qualify a measure for a statewide ballot.” Activists Dennis Peron of San Francisco and Scott Imler of Santa Cruz sought to collect the signatures by relying on a group of grass-roots volunteers. When it appeared that they would fall short of the number of signature needed, a few members of this network sought out financial contributions from wealthy donors. Medical marijuana patient and magazine publisher Steve Kubby enlisted the help of Men’s Wearhouse founder George Zimmer. One supporter of drug policy reform, Jeremy Tarcher knew Bill Zimmerman, an influential campaign consultant, who became the manager of the campaign to put Proposition 215 on the ballot.

In order to get the initiative on the ballot, it was necessary for this activist coalition to rely on an infusion of resources from organizations and individuals somewhat external to the struggle to provide medical marijuana to patients in

California. In addition to Zimmer and Zimmerman, billionaire progressive philanthropists George Soros and Peter Lewis provided substantial financial backing of the 215 campaign (Bock 2000). Soros, the Hungarian born investor and founder of the Open Society Institute, had donated millions of dollars to the Drug Policy Foundation, the predecessor of the influential Drug Policy Alliance. The organization and campaign to put the initiative on the ballot and insure its passage became Californians for Medical Rights (CMR). The wider organization responsible for CMR was the Drug Policy Foundation (which eventually joined with the Lindesmith Center to become the Drug Policy Alliance).

Convincing the leaders of the Drug Policy Foundation, and their “mega-funders” George Soros and Peter Lewis to donate to the 215 campaign was not easy for the activists and growing number of organizations involved. According to St. Pierre, a group of longtime activists including “Keith [Stroup], Dr. Grinspoon, Dr. Mikuriya, convinced Ethan Nadelmann of the Drug Policy Foundation to go to Soros for funding. “A bunch of rag-tag people can come up with a great idea...and now you have this initiative...but the movement had never seen [the] money needed to pass it...to get 900,000 signatures. To his ever-loving credit, the only reason why there is medical marijuana in the United States, in my view, is because...a number of us went to Ethan [Nadelmann] and said, you didn’t write this...none of us would have written it... but if we could get enough signatures and get this thing to pass... this would be the first major victory for drug policy reform [since the 1970s]” (St. Pierre Personal Communication 2010). Citing the two medical marijuana bills that had passed the

California legislature but were vetoed by Governor Pete Wilson as clear signs of public support, a contingent from NORML and other prominent movement leaders lobbied Nadelmann to ask George Soros for a large donation. This group went to Nadelmann, “and asked for \$5 million” to help pass the initiative.

Although Soros eventually committed to funding the initiative, it took several high level meetings in Southern California between drug policy reform leaders to coalesce around the goal. The group was characterized by in-fighting, and it was only through the efforts of Anita Roddick, the owner of the Body Shop Chain, that they agreed to collaborate to help pass 215. According to St. Pierre (Personal Communication 2010):

[Roddick] was so angry that Keith, Ethan, myself, Dick Cowan, Dennis Peron and Dr. Mikuriya, none of us were strategically getting along, all friends just not getting along, and moving forward...she sequestered us for three days...there were like twenty to thirty of us....and slowly but surely, through a series of...standard mediation processes, [Rodick]...walked us back from the brink, got everybody on line, in line together...and we came out of those unified, and as you can guess it passed. And then it started this major movement from '96 to 2000, where Soros, Lewis, and John Sperling...who round out the triumvirate of billionaires...the three of them became the folks who were putting up the millions of dollars for Oregon, Hawaii, Alaska, but only for medical marijuana purposes because they saw it as the only winner, not decrim, not legalization...they are more incremental than NORML is. That's why today there's still a division amongst all these different groups, [because] some are funded by these elitists and some by grass roots groups and as you can imagine the grass roots groups want more and they want it faster.

Activists Debby Goldsberry discussed a meeting between numerous Bay Area grass roots activists and Californians for Medical Rights director Bill Zimmerman at an Italian restaurant near the Oakland Airport, where Zimmerman and other CMR staffers told the grassroots activists to stop collecting signatures and to turn the

campaign to place the initiative on the ballot over to them. That event represents the turning over of the 215 effort to the political action group CMR, a key shift away from the grass roots origins of the initiative, to elite donors and professionally staffed social movement organizations. This finding provides support for resource mobilization theory.

As discussed by Ferraiolo (2004) the ballot initiative played a crucial role in the legalization of medical cannabis in California at the state level. According to Ferraiolo (2004), the ballot initiative process allowed drug policy reformers to change venues in order to capitalize on a few key advantages they had over their opponents, as drug policy reform opponents were unable to exploit their traditional advantage in legislative venues. Several analysts have noted the importance of framing to the success of medical marijuana ballot initiatives. Reinerman (2011) and Ferraiolo (2004) both note that advocates made a distinction between medical and recreational use of marijuana. In order to succeed with medical marijuana, activists who had long supported the legalization of all forms of cannabis use (not just medical cannabis use) were forced to make a sharp distinction between the recreational and medical use of the drug.

According to Ferraiolo (2004), in framing marijuana as medicine, reformers were able to deploy a novel set of arguments against its prohibition. By framing the provision of marijuana to sick people as compassionate and necessary to alleviating suffering they effectively limited the ability of their opponents to frame their opposition to medical cannabis in favorable terms. Not wanting to seem callous or

insensitive, opponents had to rely on a more elaborate argument that sought to associate the provision of medical cannabis with the putatively nefarious goal of “legalizing” marijuana, (also known as the “stalking horse” argument).

To summarize, an infusion of financial support and the professional skills that affords were necessary to put Proposition 215 on the ballot, which confirms the central claim of resource mobilization theory. That being said, once Proposition 215 was placed on the ballot and passed in 1996, it took the efforts of grass roots activists, enterprising entrepreneurs, and social movement organizations to actively fight to establish and maintain the provision of medical marijuana in the state.

The passage of the proposition led to a new legal reality in California. For the first time, sick individuals and their caregivers were able to legally grow and consume cannabis as long as their doctor recommended it. This led some activists to open medical cannabis dispensaries and delivery services. Although 215 passed in every county in the state, it was most popular among voters in the San Francisco Bay Area, with San Francisco and Santa Cruz counties having the highest percentages of “yes” votes. Los Angeles and San Diego have lower levels of voter approval. This demonstrates that the longer tenure of medical marijuana in the Bay Area was associated with more approval from voters, and that the medical marijuana movement was primarily concentrated in the Bay Area as of late 1996.

5382915 55.6%
4301960 44.4%

Data is current as of Dec 18 08:35
Precincts reporting: 100%

Map from CA Secretary of State Vote 96 website:
<http://vote96.sos.ca.gov/Vote96/html/vote/prop/prop-215.961218083528.html>

Both prior to and after the passage of Proposition 215, civil disobedience by a dedicated group of activists was essential to the adoption of the law and the provision of marijuana to qualified patients. I use the term “provision” because providing medical marijuana in California through a system of dispensaries has been the crucial sticking point for policy actors at the local, state and federal levels. Unlike Oregon, Hawaii and Washington (the other three states to institute a medical marijuana law prior to 2000) California’s law allowed personal cultivation and the sharing of medical marijuana among patients and their caregivers. Additionally, California’s law was less restrictive when considering the types of medical conditions for which patients could seek to use cannabis (Reinarman et al. 2011).

While it is important to account for state and local differences in medical marijuana provision it is also important to note that drug policy change does not occur in a vacuum and social movement organizations actively marshal support for their efforts by using existing dispensaries and laws as symbolic resources. The movement was able to build momentum by accumulating victories in the form of dispensaries. The ability of dispensaries to occupy private space and public discourse grants it a foothold in two important fields of social action, politics and commerce. By spanning two fields of action the medical marijuana movement is unique in being a hybrid between movement and industry. Federal and local law enforcement agencies have sought to prohibit dispensaries from opening throughout the U.S. As the number of dispensaries has grown, they have become clear evidence that marijuana can be sold through licit channels and the “sky will not fall” (St. Pierre Personal Communication

2010). Theoretically the physical nature of dispensaries (their ability to occupy space) represent a new type of movement outcome, as opposed to less obvious gains (changes in opinions and attitudes), the medical marijuana movement is able to accumulate its outcomes in the physical form of dispensaries.

Conclusion

This case study of San Francisco and Oakland provides several important lessons about political opportunity structure and the development of new drug policy modalities. The first concerns the sequence of events; activists were not merely responding to favorable political opportunity structures, they were shaping them through civil disobedience. Political opportunity structures are composed of federal, state, and local laws, personnel at various levels of government, law enforcement practices, the presence of ballot initiatives. However, context was important. The AIDS crisis and the complete absence of federal reaction and funding had forced cities to develop ways to address the crisis. In this climate activists had more leeway with regard to legal proscriptions and like Rathbun they became folk heroes. Ballot initiatives were crucial in demonstrating the desire of the public to allow for the medical use of marijuana. Measures P (80% yes), and A (77% yes), signaled to politicians that prohibiting access to medical marijuana was very unpopular. This allowed critical personnel, specifically district attorneys, to change the practice of routinely prosecuting marijuana crimes. City government leaders including City Council members and supervisors began to pass resolutions that allowed ballot initiatives to be enforced. As the government officials, including the San Francisco

District Attorney Terrence Hallinan in San Francisco, voiced their support for medical marijuana and publicity around the SF CBC grew, activists in Oakland began to spread the “buyer’s club” approach to the East Bay and north to Marin County.

In the next chapter, I will continue to describe and analyze the ways that activists and city officials worked to shape the provision of medical cannabis. I will show that varying approaches to regulation lead to distinctly different consequences for the three largest metropolitan areas in the state. The next decade of medical marijuana would also see different approaches from the Clinton and Bush II administrations. It was not long after Prop. 215 passed, that the ONDCP threatened to revoke the licenses of physicians who recommended medical cannabis to qualified patients. This would be the first skirmish in what has turned out to be a sixteen-year (and counting) policy of suppression from federal law enforcement agencies.

CHAPTER V: A TALE OF 3 CITIES MEDICAL MARIJUANA 1997-2011

In this chapter, I examine how the medical marijuana movement weaves itself into the political, economic, and cultural landscapes of California, from 1997 until 2009. I look dialectically at how movement actors responded to the reactions of federal drug enforcement actors, how new types of actors came to participate in the movement, and how activists and organizations shaped the political opportunity structures that bound their praxis. First I examine the response of the Clinton and early Bush II administrations to medical marijuana in its second phase, and the changes that federal policies catalyze in the movement. I argue that the federal response mobilized three important new categories of actors in the movement: doctors; medical cannabis patients; and cannabis providers (growers and dispensary operators). I look at how these participants are politicized through active participation in dispensaries and collectives. I analyze the emergence of the organization Americans for Safe Access as an important result of this phase of the movement (from roughly 1997 through 2004). Next, I devote the largest part of the chapter to exploring the important differences taken by California's three largest metropolitan areas to regulating medical cannabis dispensaries and the role activists and organizations play in shaping the content of regulations.

What ties these strands of the movement's history together is the organizational form of the medical cannabis dispensary. Dispensaries are the physical sites where medical cannabis patients are able to procure cannabis in whole plant form. This important modality of drug policy reform has had a complex legal

and cultural existence. Both the legal basis and nomenclature of dispensaries have evolved throughout the twenty-year swath of medical cannabis history that this dissertation covers. Dispensaries are essentially where the rubber hits the road for medical marijuana in California. Originally called buyers clubs or just “clubs” following the lead of the San Francisco Cannabis Buyers Club (SFCBC), the facilities were called cooperatives in the late 1990s, and medical cannabis dispensary collectives in the middle of the 2000s. Opponents and proponents alike refer to dispensaries as “pot clubs,” “weed clubs,” and “pot shops.” My foci in this chapter are the political and social movement dimensions of dispensaries. Dispensaries are important sites for mobilizing movement participants and resources, lighting rods for media depictions of medical cannabis, and the objects of local legal regulation and taxation schema.

Medical marijuana dispensaries are the key sites for the provision of medical marijuana in California. Until Colorado began to permit the operation of dispensaries in 2009, dispensaries were the most distinctive feature of medical marijuana provision in California. Similar to syringe or needle exchange programs, dispensaries occupy physical space and often have a permanent or semi-permanent address. This physicality differentiates dispensaries from drug policy change that primarily affect the application of the criminal law in the legal realm (for example the recent approval of SB 1449 by California Governor Arnold Schwarzenegger or the change in federal sentencing guidelines under the Fair Sentencing Act of 2010). Dispensaries are an important type of movement outcome, an outcome with a physical footprint, which

broadcasts movement success and semi-permanently challenges the institutional and legal arrangements that the movement seeks to alter. The physicality of California's dispensaries forces federal, state and local governments to address the legality, taxability and feasibility of these unique formations that straddle the line between modalities of reform and businesses. The next chapter focuses on how dispensaries operate in the fields of social movement and commercial activity.

Dispensaries existed prior to the passage of Proposition 215. After the law passed, the number of dispensaries grew slowly until 2005, when their number began to grow quite rapidly. There has been tremendous variation in how the Clinton, Bush and Obama administrations have used federal agencies to police the provision of medical marijuana through dispensaries. Raids on dispensaries were the favored tactic of the Bush Administration, however raids generated protest, media coverage and a backlash by activists and supporters. Similarly, since 1996, California's three attorney generals (Lungren, Lockyer and Brown) have also varied in their policy toward medical cannabis dispensaries (Bock 2000). A series of federal and state court decisions challenged, expanded and eventually formalized the legal basis for dispensaries. Despite this the federal law enforcement authorities have never recognized the legal status of dispensaries and they have used an evolving set of tactics to threaten and close them down. Social movement organizations (primarily the organization Americans for Safe Access) have played a key role in the establishment and expansion of dispensaries. Dispensaries have been amply covered by local and national news sources. Dispensaries use an elaborate system of

packaging, quality control, and novel nomenclature to transform a formerly illicit substance into legitimate medicine. As noted by Feldman and Mandel (1998) and Reiman (2008), dispensaries can also provide social services and a social network for medical marijuana patients, which helps solidify them as a political constituency to be reckoned with. Dispensaries and their operators have also become important players in the politics of drug policy reform and their own regulation.

Political Opportunity Structures

Beginning in the 1970s, social movement theorists emphasized the importance of political and legal contexts in shaping the emergence and success of a social movement (Eisinger 1973; Tilly 1978; McAdam 1982). In line with this theoretical perspective, political, legal and cultural contexts are very important in determining the adoption of drug policy reform measures. Indeed what is interesting about drug policy reform in the U.S. is the patchwork or balkanized character new policies take at both the state and local levels. As with needle exchange, the content of new cannabis policies is largely dependent on the local political context. This comports with the political process theory's main emphasis on "political opportunity structures" (Eisinger 1973, Tilly 1978).

The key insights of political process theory can be extended to the medical marijuana branch of drug policy reform and what I have termed modalities of marijuana policy reform: cannabis dispensaries, the sanctioning of collective cultivation, provisions for identification and registration programs, and the permitting of medical necessity defenses. According to Eisinger (1973:11), the political behavior

of groups “is not simply a function of the resources they command but of the openings, weak spots, barriers, and resources of the political system itself.” Political and legal contexts at different levels of government have shaped how medical marijuana has taken root in California and other states. Drug policy reform is shaped by a system of interlocking legal contexts at the international, national, state, and local levels of government. From international treaty arrangements, to variations in how presidential administrations deploy federal law enforcement agencies, to city level policies toward medical cannabis dispensaries, the central thesis of the political process approach rings true; political and legal contexts are key determinants of movement direction and emergence.

Political Process theorists emphasize the role of state response in conditioning what social movements do. The three US presidents that have served since California passed proposition 215 in 1996 have pursued three very different policies when faced with California’s Compassionate Use Act. The Clinton Administration spoke out against the proposition a few days before it became law. In January of 1997, the ONDCP attempted to forbid doctors in California from recommending cannabis to patients. In August of 1997, Clinton pursued a policy of suing operating dispensaries to close them down. Many dispensaries were forced to close by local law enforcement, often acting in concert with federal authorities. Bush pursued active and intrusive raids of dispensaries in California. This contrasts sharply with Clinton’s less militaristic approach.

There is tremendous variation between the medical marijuana laws that have been adopted in seventeen states and the District of Columbia since 1996.

California's medical marijuana law and system of medical marijuana provision is different from the systems of distribution found in any other state that has adopted medical marijuana laws. As this chapter will show, pronounced differences occur even within California. Despite one state law (first the Compassionate Use Act, then S.B. 420 in 2004) that governs medical marijuana cultivation, provision and use, there is considerable variability concerning what medical marijuana looks like in a given county or municipality. The tension between licit and illicit cannabis permeates every aspect of medical cannabis provision, from growing, transporting, selling and ingesting the plant. To further complicate this picture, marked differences in medical marijuana governance occur between cities and unincorporated areas of the same California counties.

Using insights from political process theory (described in detail in Chapter 4), I have developed a model of the political opportunity structures that bound the actions of medical cannabis actors (primarily patients and providers). I use a dynamic version of political process theory to also account for the ways that activists and organizations actively shape the political opportunity structures that bound the governance of their practices. The key elements of the local political opportunity structure for medical cannabis providers include: the policies of city and district attorneys; city and county resolutions and initiatives; police department policies and practices; dispensary regulations; and city medical cannabis commissions and task

forces. The key tools that activists use to shape these political opportunity structures include city level ballot measures, protest and rallies, referenda, and legal advocacy.

Table 5.1 Political Opportunity Structures and Activist Tools

Elements of Local Political Opportunity Structures	Tools Activists and Organizations Use to Shape Local Political Opportunities
State Laws and Policies City Laws and Policies Federal Policies City Council Resolutions in Support City and District Attorneys Practices Police Department Policies and Practices Viable Dispensary Regulations City Commissions and Task Forces	City and State Ballot Initiatives Lobbying Protest and Rallies Legal Advocacy Referenda

My oral histories from key participants in the medical marijuana movement and extensive archival research of movement literature, websites and journalism, showed that local political opportunity structures determine the ways that federal law enforcement and local government officials respond to the provision of medical marijuana. For examples Jeff Jones said that favorable treatment by local leaders influenced the way that the D.E.A. went about prosecuting him and the Oakland Cannabis Buyer's Cooperative. According to Jones, the D.E.A. used civil law, as opposed to criminal law to force him to close the OCBC in 1998 (Jones Personal Communication 2011). Under Bush, local officials also responded to the tactics of federal law enforcement agencies by actively supporting medical cannabis providers and positioning themselves in opposition to federal actors opposed to cannabis. This happened most obviously in Santa Cruz, when city officials publicly distributed cannabis to patients in the wake of a September 2002 raid on WAMM by the DEA

(Chapkis and Webb 2008). State officials would follow suit by also making their opposition to the federal position public throughout the 2000s.

Throughout this chapter, I will be using the terms activist, advocate, provider, dispensary, and qualified patient. An activist is any individual working alone or as part of a group to institute the provision of medical cannabis in line with the Compassionate Use Act of 1996 (CUA), activists may use political tactics (including ballot initiatives and lobbying), legal tactics (lawsuits and challenges), or traditional social movement tactics (including protest, civil disobedience, and rallies).

Advocates are actors who only use legal tactics (law suits and legal defenses). A provider is an individual or group of individuals operating a medical cannabis dispensary, a medical cannabis collective, or medical cannabis growing projects. A medical cannabis dispensary is a location that sells medical marijuana to qualified medical cannabis patients. A qualified medical cannabis patient is someone who has sought and received a recommendation to use cannabis for medicinal purposes from a currently licensed and practicing physician. It is important to distinguish a doctor's "recommendation" from a "prescription." Because the federal food and drug administration does not recognize cannabis as a medicine, doctors cannot prescribe marijuana; instead they must recommend or suggest its use to patients. In fact, a voter initiative to legalize medical marijuana in Arizona in 1996 was summarily invalidated because it used the language of prescription and not recommendation.

Federal Response and the Mobilization of new Participants

Although dispensaries are the most corporeal aspect of the medical marijuana phenomenon, the Office of National Drug Control Policy under President Clinton first targeted doctors who would recommend the herbal medicine to their patients, before attempting to close cannabis dispensaries. In doing so, the ONDCP would contribute to mobilizing a new category of participants in the movement - medical doctors in California. In late December of 1996, ONDCP Director Barry McCaffrey threatened to investigate California physicians who recommended cannabis to patients. The ONDCP noted that sanctions could include forbidding doctors to prescribe controlled substances (a practice regulated at the federal level by the DEA) and accept federally regulated Medicaid and Medicare. San Francisco AIDS doctor Marcus Conant led a class action suit against McCaffrey and the ONDCP, premised on protecting the right of free speech for doctors. On April 1, 1997, U.S. District Court Fern Smith issued a temporary restraining order against federal agencies that threaten action against California medical doctors. After the government appealed the decision, the Ninth Circuit Court of Appeals ruled 3-0 in favor of the district Court's ruling. Five years later John Walters, the ONDCP director during the Bush Administration, was unsuccessful in appealing the Ninth Circuit's decision to the Supreme Court (Conant v. Walters 2002; Eddy 2010).

This challenge to the heavy-handed tactics of Clinton's (and then Bush's) drug czar, turned out to be a boon for the burgeoning movement in two ways. It emboldened and encouraged more physicians to become involved in the movement, by eliminating the fear of prosecution for recommending cannabis to patients and

garnering the support of the American Medical Association and the California Medical Association, who publicized their support of doctors' rights after the decision (Bock 2000). In addition to encouraging more doctors to participate in the medical cannabis movement, the decision also served as an early public victory for the movement, and a surprising rejoinder to the efforts of the Clinton administration to curtail the provision of medical cannabis. In light of the opposition to medical cannabis by then California Attorney General Dan Lungren, this decision signified that the Clinton administration would not be able to combat the provision of medical cannabis through means that threatened the right to free speech.

Medical cannabis patients were another group of participants in the medical marijuana movement that increased in number after the passage of the CUA. During the early grass roots phase of the campaign for Proposition 215, patients in San Francisco and Oakland were mobilized as participants in the movement through their involvement with the SF CBC and the OCBC. According to Jeff Jones (Personal Communication 2011) his patient base became organized as activists for their rights as patients.

After the CUA was passed, the population of medical cannabis patients diversified and grew. The California experience with medical cannabis is characterized by the ever-shifting composition of the user population (Reinarman et al. 2011). As Gieringer (2002) notes, initially the population of medical users in the Bay Area were people with HIV/AIDS and cancer. Later patients with chronic pain, mood disorders and other psychiatric conditions were recommended cannabis by their

physicians (Mandel 1997, 1998, as quoted in Gieringer 2002). This diversification and growth resulted from the wide latitude granted to physicians and patients by the wording of Proposition 215 (1996), which states that doctors can recommend cannabis for “any other illness for which marijuana provides relief.”

After the passage of Proposition 215 in California, several authors and researchers attempted to characterize the new population of legal medical users in the San Francisco Bay Area. Harris, Mandelson and Jones (1998), interviewed a convenience sample of 100 medical marijuana club members in 1998. They found that their sample used medical marijuana for a variety of symptoms with those related to AIDS being the most prevalent. Their “typical user was a white, unemployed man, aged 40, who most commonly used marijuana daily for appetite stimulation and weight gain for AIDS-related wasting” (1998: 313). Mikuriya (as quoted in Gieringer 2002) interviewed 2,480 patients and recommended cannabis for over 250 different conditions, with chronic pain and psychiatric disorders being the most common. Mikuriya found that many patients presented for multiple symptoms. Mandel also conducted surveys of the Oakland Cannabis Buyers Cooperative (OCBC) in 1997 (n = 768) and 1998 (n = 965) and discovered that patients presenting with AIDS as their primary condition declined from 59% in 1997 to 29 % in 1998, with a rise in patients presenting with chronic pain and mood disorders (Gieringer 2002).

Immediately after warning doctors of the potential pitfalls of recommending cannabis to patients in late 1996, the ONDCP provided funding to the National Academy of Sciences to conduct an in-depth study of the medical efficacy of

cannabis through the Institute of Medicine. To conduct research for their 1999 report, a group of Institute of Medicine researchers visited three clubs including the SF CBC in 1998, and the Los Angeles Cannabis Resource Center in 1999 (Mack and Joy 2001). Similar to the findings of Brown et al. (1996) and Mandel (1997, 1998), the IOM commission reported that over 60% of the members of the three buyers clubs they visited were AIDS patients (Mack and Joy 2001: 86). Most research on California's medical marijuana population has relied on narrow sampling frames or data that is specific to certain municipalities (San Francisco or Oakland) or regions (the San Francisco Bay Area) in the state. Although, there was interest in California's medical marijuana population initially, there has been little research on this population since 2000. In a 2011 study, Reinerman, Nunberg, Lanthier, and Heddleston, found that chronic pain, insomnia and anxiety were the chief symptoms for a sample of 1,746 medical cannabis patients from around the state. In the sixteen years since the passage of Prop. 215, the patient population has grown and become more diverse.

Becoming a Medical Marijuana Patient

Becoming a medical marijuana patient in California exempts people from certain legal penalties, effectively granting them a special status in state law. Qualified patients are able to cultivate, possess, transport, and share marijuana. The legal “privileges” afforded to medical marijuana patients also have limitations with regard to employment law, child custody and access to federal student aid as medical cannabis patients are routinely fired for failing drug tests that do not make exceptions

for cannabis use. In child custody battles, children are occasionally seized from medical cannabis patients in California and other states.

The first step in the process involves patients becoming aware of the steps that they need to go through to become a legally qualified medical cannabis patient. This awareness can come from several different sources. Although those unfamiliar with medical marijuana in California may assume that primary physicians alert most patients to the therapeutic potential of cannabis, such cases are more the exception than a rule. Patients also become aware of medical marijuana through advertising by doctors' clinics that specialize in recommending marijuana. On the backs of many free weekly papers in California, clinics that specialize in recommending medical marijuana advertise heavily. In an environment where many doctors are reluctant to recommend cannabis, physicians who specialize in cannabis recommendations are able to charge a premium for the service. Future patients also become aware of medical marijuana through dispensary advertising in free weekly papers, online and even on billboards. Others may hear about medical marijuana through friends, relatives and co-workers. As dispensaries have become the subject of popular television programs including the Discovery Channel's "Weed Wars," which profiles Oakland's publicity hungry Harborside Health Center, or the National Geographic Channel's 2012 program "American Weed," the presence of dispensaries is increasingly well represented in popular culture.

Once future patients are alerted to the prospect of becoming patients they must either find a doctor that is willing to recommend cannabis to them or ask their

primary physician to do so. The latter prospect is actually quite difficult to do. Although any licensed medical doctor in California is permitted by state law to recommend the use of cannabis to their patients for a wide variety of illnesses and conditions, the majority of doctors are reluctant to do so.

After patients become legally qualified, many procure their cannabis through dispensaries; in counties and cities where dispensaries are forbidden from operating, patients rely on delivery services, “collective” growing, and individual growing. From fieldwork in nine dispensaries throughout the Bay Area I have gathered evidence that demonstrates they serve as important sites for mobilizing patients as participants in the medical marijuana movement. One large East Bay dispensary, for example collected donations for Americans for Safe Access and local and state ballot measure campaigns during election years. The dispensary also registered patients to vote, encouraged lobbying campaigns through distributing flyers, and notified patients of advocacy efforts and impending lawsuits that they may be able to participate in. Another large dispensary in the East Bay, encouraged patients to engage in activism by providing one gram of cannabis in return for one hour of activism at a computer terminal in their facility. During a 2011 drive to fund the signature gathering needed to pass a voter referendum on restrictive dispensary regulations, many of the nearly one hundred dispensaries in San Jose served as important sites for gathering funds and signatures. These more recent forms of mobilization were evident in the activism that was an integral part of the San

Francisco CBC, which served as the nerve center for the early Proposition 215 campaign in 1995 and 1996.

In addition to being important sites for social movement activity, researchers have shown that dispensaries also provide important social benefits to patients in California. Feldman and Mandel (1998) conducted in-depth interviews and observed patients and staff at a medical marijuana dispensary in San Francisco. They found that the dispensary provided numerous social benefits to its members in addition to providing medicinal cannabis. The authors found that although most patients initially sought to join the SF CBC (and the other two “clubs” in their study) in order to obtain medical cannabis licitly, the “club” provided members with an “environment in which to socialize with others who were struggling not only with serious disease but who were frequently isolated, frightened, and depressed” (Feldman and Mandel 1998: 185). More recently, Reiman (2008) surveyed 130 patients in seven different medical cannabis dispensaries in the San Francisco Bay Area as part of the “Cannabis Care Study.” She found that “nearly half of the sample reported substituting cannabis for alcohol and illegal drugs and that 74% reported substituting it for prescription drugs.” As dispensaries represent physically situated social movement outcomes and sites of movement activity, and a new modality of drug policy, the ways that activists and city officials approach their regulation provides important lessons for scholars of social movements and drug policy.

A Tale of 3 Cities

California's three largest metro areas, the San Francisco Bay Area, the Los Angeles metro area, and the San Diego metro area, illustrate key local differences in medical marijuana policy under one uniform state law. These different policies stem from differences in political opportunity structures in these three locales. While key demographic and political differences contribute to political opportunity structures, activists and organizations actively shape local political opportunity structures. Additionally, local political opportunity structures are also shaped by federal medical cannabis policies that shift with each new presidential administration, (under Obama federal policies shifted significantly *during* his first administration). But, local medical cannabis policies are not merely trumped by federal policy; instead local political opportunity structures determine the impact of federal policies (e.g. in determining variations in federal raids and local responses to raids).

Part of what makes local variations in the application of state law so pronounced is the intentional flexibility of the law. Proposition 215 was written to give wide leeway to local governments with regard to the regulation of cultivation and provision of medical marijuana. The cities with the longest histories of cooperation between providers, activists and local government officials have served as laboratories for novel legal and taxation codes to further legitimize medical marijuana provision to qualified patients. Counties and cities have adopted varying legal approaches to the regulation of dispensaries (Americans for Safe Access 2007). Some cities and counties explicitly ban dispensaries. Others allow current

dispensaries to continue operation while placing a moratorium on new dispensaries. A third group permits existing and new dispensaries to operate. Many counties and cities ban the operation of cannabis dispensaries. In other cities, local Sheriff's departments and other branches of law enforcement investigate and shut down dispensaries. Such police actions typically occur in conjunction with the DEA and sometimes independent of their participation.

I selected these three metro areas because they represent three different approaches to the regulation of medical cannabis in California. In the San Francisco Bay Area, favorable political opportunity structures contributed to the birth of the medical marijuana movement, its incubation through determined activism and favorable city policies (from 1997 through 2004), the eventual regulation of dispensaries (in 2004 and 2005), and the formation of local task forces and commissions (2007 through 2009). In Los Angeles, local police were initially hostile to dispensaries and there were very few until 2005. In 2005, as the number of dispensaries began to grow rapidly, the city adopted a hands-off approach. The city attempted to place a moratorium on dispensaries in 2007 (when 186 registered with the city), but the number continued to grow through a "hardship exemption." City officials were unable to institute regulations, and the County and District Attorneys sought to undermine the legal basis for dispensaries wholesale in 2009 (Hoeffel 2009a). By 2009 there were roughly 545 dispensaries in the city (McDonald and Pelisek 2009).

The city of San Diego took a remarkably different tack with dispensaries than both Los Angeles and the Bay Area. San Diego represents the punitive end of the spectrum. Where San Francisco, Oakland, and Berkeley had become increasingly hospitable to dispensaries and marijuana law reform in general, and Los Angeles had taken a de facto hands off approach to dispensary regulation while the number of dispensaries exploded, the city and county of San Diego were hostile to medical marijuana and dispensaries from shortly after the 1996 passage of the CUA to the present. In Los Angeles and San Diego, disagreements and differing interpretations of state law (Proposition 215, State Bill 420 and court cases) were at the root of local intransigence to regulating dispensaries. San Diego's approach featured frequent raids that depended on cooperation between local and federal law enforcement agencies.

Table 5.2: Key Aspects of Political Opportunity Structures at 3 Levels of Government

Federal Laws/Policies	State Laws/Policies	Local Laws/Policies
Clinton 1996-2000: Threatens Doctors 1/97 Suits to Close Clubs 1/98 OCBC closed 98	Compassionate Use Act 11/96 Lungren 96-98 Hostile Attorney General Does not recognize 215 Lockyer 99-07 Amenable Attorney General Full Implementation of 215	Proposition P SF 91 Proposition A SC 92 Oakland Declares Public Health Emergency 98
Bush 2001-2008: U.S. v OCBC 5/01 LA CRC Raid 10/01 SF Raids 2/02 WAMM Raid 9/02 DEA RAIDS ⁴ 19 Raids in 2005 20 Raids in 2006 53 Raids in 2007	State Bill 420 Passed 2003 Medical Marijuana Program Act Effective 1/2004 State Board of Equalization begins collecting Sales Tax 5/05 08 A.G. Brown issues Dispensary Guidelines	Bay Area Cities allow slow growth of dispensaries '97-'02 Santa Cruz distributes cannabis in response to WAMM raids 9/02 SF, OAK, and Berkeley institute dispensary regulations 04-05 San Diego multi- agency raids 2005, 06, 08 and 09 LA Regulation Fiasco 2007-08
Obama 2009-2012 Ogden Memo 3/09 (leads to rapid growth of dispensaries outside the locally regulated Bay Area) Federal Crackdown 10/11		LA Regulation Fiasco (cont.) 2009-11 San Diego Regulations Chess Match 2011

⁴ Cal NORML Newsletter December 2007

The San Francisco Bay Area

The Bay Area represents the pro-active end of the regulatory spectrum. Public support, sympathetic local officials (in government and law enforcement), local initiatives, and activism all contributed to a favorable political and legal context for the movement to arise. Throughout the latter half of the twentieth century, the cities of Oakland and Berkeley have been important sites for numerous social movements. Inspired by the Civil Rights Movement, the Free Speech movement began at the University of California's flagship campus in 1964. Protest, Peoples' Park, and punk rock populate Berkeley's colorful past. After the passage of Proposition 215, local officials and providers worked together to facilitate access to medical cannabis through dispensaries and collectives. The cities of Oakland, Berkeley, San Francisco, and Santa Cruz would become active in protecting medical cannabis providers from hostile state and federal officials who sought to prevent the operation of dispensaries and collectives. In addition to providing favorable local political opportunity structures, government officials in these Bay area cities took steps to work with, protect, and publicly support dispensaries and collectives in the face of federal and state officials who were actively working to close dispensaries throughout the state. The support of city officials is all the more remarkable because it represents favorable local political opportunity structures bounded by state and federal laws and policies that were highly unfavorable.

Bay Area cities were the first in the state to regulate dispensaries in 2004 and 2005. Prior to the institution of regulations, medical cannabis activists and

organizations in San Francisco, Oakland, and Berkeley worked to insure that local officials were amenable to the operation of medical cannabis dispensaries. As discussed in Chapter 4, the resounding support for medical marijuana ballot initiatives (at both the state and local levels) sent the message to city officials that there was widespread public support for medical cannabis in the Bay Area. In this context, city officials passed resolutions that publicized their support for medical cannabis and contributed to favorable local policies. In San Francisco, District Attorneys sympathetic to dispensaries (Terrence Hallinan and Kamala Harris) further contributed to a favorable political opportunity structure for medical cannabis. Eventually city officials sought to regulate (but not eradicate) dispensaries.

Oakland

Although the medical marijuana movement began in San Francisco, the city of Oakland would adopt policies that would make it the most supportive and innovative city in the state with regard to medical cannabis policies. Its neighbor to the north, Berkeley would also take an innovative approach to medical cannabis. Through continuing to author and pass city level ballot initiatives activists in Oakland and Berkeley greatly contributed to expanding favorable local political opportunity structures in 2004 and 2008.

Jeff Jones and several associates began to provide medical marijuana by bike delivery service as the Oakland Cannabis Buyers' Club in 1995 (Jones Personal Communication 2011). Initially, his efforts were unknown to city officials. In 1996, city officials approached Jones and provided their support in Resolution No. 72516

(Oakland City Council 1996a), which recognized that “the Oakland Cannabis Buyer’s Club provides a way for patients needing to purchase marijuana for medical use to do so with greater ease and less risk of arrest and prosecution.” Shortly before the 1996 election, the Oakland City Council (1996b) resolved to establish a “Working Group [to] “discuss an make recommendation (sic) to the City Council regarding refinement of the City’s medical marijuana policy.” In this context, the OCBC continued to operate in light of the policies pursued by Attorney General Dan Lungren, who adamantly opposed the operation of dispensaries, and viewed that the CUA did not provide a legal basis for their operation.

Across the Bay, Dennis Peron’s San Francisco Cannabis Buyer’s Club re-opened as the Cannabis Cultivators Club on January 15, 1997, after being raided and shut down by California Narcotics agents at the direction of Attorney General Lungren in August of 1996 (The Drug Policy Letter 1997). Peron re-opened after San Francisco Superior Court Judge David Garcia ruled that “clubs” could operate as “nonprofit organizations acting as primary caregivers to qualified patients” and lifted the injunction put in place after the August raid (Bock 2000). On April 21, 1997, the Drug Enforcement Administration conducted its first dispensary raid of the post-215 era, when agents seized “331 marijuana plants and growing equipment” from Flower Therapy in San Francisco (The Drug Policy Letter 1997). As this federal raid came ten days after Judge Smith issued the restraining order against the Office of National Drug Control Policy for threatening doctors, the timing of the raid imbued it with symbolic value. Whether intentional or not, the DEA was demonstrating that federal

drug control actors were willing to use multiple tactics to curtail the ability of Californians from accessing medical cannabis through licit channels under the CUA.

Keeping alive the social networks that formed during the 215 campaign, dispensary operators kept in contact with one another into 1997. Medical marijuana activist Pebbles Trippet provided the movement with an early victory by winning her appeal of the *People v. Trippet* decision in August 1997. The California appeals court ruled that the CUA allowed patients to transport and possess marijuana for medical reasons. In October 1997, eighteen “Cannabis Club” operators met in Santa Cruz for a summit. At the meeting, longtime activist Scott Imler, presented the standard operating procedures for his club in the progressive enclave of West Hollywood. The meticulous restrictions of the LA CRC went beyond what was specified in the CUA. Imler also detailed the “suggested donation” pricing system they had developed. In October 1997, California NORML estimated that eighteen dispensaries of varying size were open in the state in their newsletter (Bock 2000).

At the state level of enforcement, A.G. Lungren tried to shut down Peron’s new Cultivators’ Club in late 1997. In the *People vs. Peron*, Lungren argued that cannabis clubs could not qualify as “caregivers” under the CUA. According to section “d” of the CUA (1996), the criminal penalties:

relating to the possession...and...cultivation of marijuana[Sections 11357 and 11358], shall not apply to a patient, or to the patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

A California Appellate District judge ruled that club should not be considered “primary caregivers.” Clubs begin to organize as collective of patients as opposed to

caregivers for patients, allowing them to side step Lungren's efforts to capitalize on the December 1997, *People v. Peron* ruling. By the end of 1997, cannabis clubs across the state were using less obvious names and organizing as patient collectives.

In January of 1998 the U.S. Department of Justice filed suit against six cannabis clubs in northern California, including the OCBC, and Dennis Peron's renamed "Cannabis Cultivators' Club." San Francisco Co. District Attorney Terrance Hallinan filed an *amicus curae* brief critical of the DOJ suit, an example of a local law enforcement official protesting the involvement of a federal law enforcement agency. Despite the suit, another cannabis club, CHAMP opened in San Francisco. On May 19, 1998, Federal district Judge Charles Breyer issued an injunction to close five dispensaries in Northern California. While some clubs closed voluntarily, the Oakland Cannabis Buyers Cooperative announced it would stay open a week later. The City of Oakland announced plans to deputize the OCBC, but Breyer rejected this move (Bock 2000). That October 13th, "the federal district court authorized the U.S. Marshal to enforce the...injunction by entering the cooperative's premises at 1755 Broadway in Oakland, evicting any and all tenants and padlocking the doors to such premises" (Oakland City Council 2010). On October 19th, 1998, the Oakland OCBC closes voluntarily, announces that it will appeal the decision to the 9th circuit of appeals and Breyer allows OCBC to reopen as an information center.

The response of city officials to the closing of the OCBC demonstrated how committed the city was to the spirit of the CUA, and to the idea that cannabis was not only an effective medicine but also a necessary medicine. A week after the OCBC

closed, the City Council (1998[2001]) declared “a local public health emergency with respect to safe, affordable access to medical cannabis in the City of Oakland” on October 27, 1998. According to the resolution passed in 2001 to renew the public health emergency the council resolved:

[T]he Oakland Cannabis Buyers' Cooperative provided medical cannabis to...2,200 seriously ill persons, approximately two-thirds of whom are living with AIDS....[T]he closure of the Oakland Cannabis Buyers' Cooperative impairs public safety by encouraging a market for street narcotic peddlers to prey upon Oakland's ill residents, [and] selling them marijuana that may be contaminated and...of unknown content and potency...[T]he City Council finds that the closure of the Oakland Cannabis Buyers' Cooperative will cause pain and suffering to seriously ill Oakland residents who are unable to cultivate medical strains of cannabis for their personal use and therefore either no longer have access to medical cannabis to alleviate their pain and suffering or purchase contaminated cannabis from street narcotic peddlers...the City Council passed Resolution No. 74618 C.M.S. (Oakland City Council 1998).

Through the language and subjects of public health this resolution connects the provision of medical cannabis to a harm reduction oriented philosophy. Denial of the medicine is framed as a harm of prohibitionist policies towards cannabis. The work of AIDS activists with harm reduction allows the medical cannabis movement to link its efforts symbolically with the goals of harm reduction; providing safe medicine that was superior and less expensive than pharmaceutical medicine to combat the wasting syndrome, nausea and pain of AIDS patients. That many AIDS patients in the Bay Area and elsewhere were exposed to the disease by sharing infected needles strengthens the link between medical marijuana and harm reduction.

Outside the protective climate of the San Francisco Bay Area, political opportunity structures were not as hospitable to the operation of dispensaries and collectives. While providers in the Bay Area were primarily concerned with federal

law enforcement interference, providers in other parts of the state were also the targets of local police and sheriffs. From 1996 through 1998, patients were arrested and prosecuted sporadically around California by local law enforcement agencies. In 1998 *Los Angeles Times* article, activist and cannabis dispensary operator Scott Imler said that law enforcement had closed “23 of 29” dispensaries in the state since 1996, “including ones in San Diego, Orange, and Ventura counties” (Glionna 1998).

The exception to the rule in Southern California was the city of West Hollywood, where Imler opened the LACRC in 1995. West Hollywood, which is surrounded by the city of Los Angeles, has been friendly to medical cannabis since 1995, when activists associated with the 215 campaign opened a storefront dispensary. Similar to the “buyers clubs” in the Bay Area and WAMM in Santa Cruz, the LACRC opened prior to the passage of Prop 215. The local political opportunity structure of West Hollywood, including its progressive electorate with a large contingent of politically active gays and lesbians, was amenable to both 215 and medical cannabis provision through a brick and mortar building. From 1996 through 1998, patients were arrested and prosecuted sporadically around California by local law enforcement agencies. In 1998 *Los Angeles Times* article, activist and cannabis dispensary operator Scott Imler said that law enforcement had closed “23 of 29” dispensaries in the state since 1996, “including ones in San Diego, Orange, and Ventura counties” (Glionna 1998). Scott Imler was one of the few activists able to keep a dispensary open by working with local officials to create a favorable political climate. One aspect of the West Hollywood political opportunity structure that was

not amenable to the LACRC was the need for the small city to rely on the LAPD for law enforcement. The LAPD was decidedly hostile to dispensaries, and this arrangement would create problems for dispensaries in years to come.

Berkeley

In Berkeley, Oakland's smaller neighbor to the north, a group of activists working with the organization Cannabis Action Network (CAN) were testing the limits of favorable local political opportunity structures. Berkeley had a long tradition of cannabis activism dating back to the 1972 effort to legalize marijuana in California through the California Ballot Initiative (the 1972 Proposition 19). Berkeley activists played a role in the state campaign and passed two city ballot initiatives in 1972 and 1979. These initiatives were largely symbolic, an Alameda county judge argued against the 1972 Berkeley Marijuana Initiative (BMI I) in *Younger v Berkeley City Council*. The 1979 BMI II had lain mostly dormant, with judges ignoring the part of the law calling for marijuana violations to be the "lowest priority" for law enforcement (La Barre 2006). Activists with CAN made contact with Tod Mikuriya, a doctor and longtime Berkeley marijuana activist in the early 1990s, and he suggested that they try to convince the city to enforce and adhere to aspects of the 1979 Berkeley initiative. Initially CAN worked on the 215 campaign by recruiting activists from other states including Jeff Jones (Jones Personal Communication 2011). After the passage of 215, some members of the organization wanted to retrain their efforts on legalizing all forms of cannabis.

In an effort to push the bounds of the 1979 initiative, CAN activists started the “Euphorium” a social club where members could procure cannabis from growers. According to CAN activist Debby Goldsberry (2011) no one had sought to actually implement changes in line with the 1979 initiative, and in order to make the initiative consequential, it was necessary for people to actually implement it. The club was organized as the “Berkeley Cannabis Consumers Union” and members had to register but they did not have to be suffering from any medical conditions or secure a doctor’s recommendation. The “Euphorium” had much more in common with Dennis Peron’s Big Top Pot Supermarket than the nearby OCBC. The club was fairly covert, and opened one day a week for a nine-month period. Public smoking in the neighborhood by certain members eventually attracted the attention of the Berkeley Police Department. After conducting an illegal sting operation BPD closed the experiment. When the tactics the police used to close the club came to light, a judge ruled that the club’s activist operators would not be subject to prosecution and they were awarded a small settlement (Rosenthal 2010; Goldsberry Personal Communication 2011). In 1999, CAN activists including Don Duncan lobbied the city to pass the Kinder Safer Streets Act in 1999, which would have implemented many of the policies called for by the 1979 Berkeley Marijuana Initiative. Although city council members including Kris Worthington were supportive, the law required cooperation from the “City Manager and the Chief of Police,” who found the law “unnecessary” (Nelson 1999).

Despite the efforts of the local police to close the “responsible adult use” club, and inability to pass the “Kinder and Safer Streets Act,” the city of Berkeley was on

the whole very supportive of medical marijuana. Over 80% of Berkeley voters approved the CUA, and the city changed its zoning ordinance to allow for dispensaries in 1997. By the time the Euphorium was closed in 1998, several dispensaries were operating in the city. Jim McClelland, the owner of a medical cannabis dispensary that opened in 1999 called the Berkeley Patients Group, was impressed by the efforts of the CAN activists who had formed the Berkeley Cannabis Consumers Union. He encouraged activists Debby Goldsberry and Don Duncan to get back on board with medical cannabis and help him with the Berkeley Patients Group. McClelland had been active with the OCBC, until it closed in 1998, and after running a dispensary in Oakland and coining the phrase “Oaksterdam” he decided to move to Berkeley (Giangiobbe 2010). When McClelland died from complications related to AIDS in 2000, he turned the club over to Goldsberry and Duncan and they used the dispensary as a platform for activism, mobilizing patients, and working to insure a favorable political climate for dispensaries in Berkeley for the next twelve years. Berkeley Patients Group would become one of the longest running dispensaries in the state, and in many ways of a model of how dispensaries could provide social services in the spirit of the Compassionate Use Act.

From 1998 to 2002, changes in personnel altered the national and state level political opportunity structures for the fledgling medical marijuana movement. In 1998, Democrat Bill Lockyer was elected California Attorney General and he pursued a policy that was much more amenable to the CUA than his predecessor Lungren. Lockyer sought to pursue a policy of “full implementation” of 215, and convened an

advisory panel that featured law enforcement and activists alike. Although Lockyer sought uniform regulations for cannabis patients, growers and dispensaries, many nuances of 215 would not become resolved until the California legislature passed Senate Bill 420 in 2003. At the Federal level, the first term of George W. Bush in 2001, would mark a new chapter in the federal effort to prevent medical cannabis actors from providing patients with cannabis.

In May 2001, the Supreme Court announced its unanimous (8-0) decision in *United States vs. OCBC*. The case had been appealed to the 9th circuit court of appeals by Jones after the federal injunction issued by Breyer in October of 1998, which ruled in Jones favor. The high court ruled against the OCBC's medical necessity defense and found that the OCBC violated the Controlled Substances Act of 1970 (Eddy 2009). Emboldened by this ruling, the DEA began to raid dispensaries throughout the state with greater frequency in 2001 and 2002. On October 25, 2001, e.g., the DEA raided Scott Imler's L.A. Cannabis Resource Center in West Hollywood, although it had followed the letter of the law and was viewed favorably by local officials, who were surprised by the raid. The LACRC was featured prominently on 60 Minutes and in the IOM study of medical marijuana. Some of the knowledge gleaned during the IOM study proved to be damning for the dispensary, as 30 DEA agents seized growing equipment and "several hundred" cannabis plants (Brady 2001).

In February of 2002, the DEA launched symbolically rich raids on medical cannabis providers in San Francisco, the birthplace and symbolic heart of the

movement. The raids coincided with a speech by DEA chief Asa Hutchinson at the Commonwealth Club in San Francisco. The San Francisco dispensary the Harm Reduction Center, and homes of people growing cannabis for the dispensary, including movement “folk hero” Ed Rosenthal, were raided on the same day. The speech and raids were greeted with protest (Mendoza 2002).

The raid would provoke a much longer lasting response than protest, by catalyzing the formation of the powerful new organization, Americans for Safe Access. According to the ASA website on August 2, 2002:

On February 12th 2002 Asa Hutchinson made a visit to San Francisco to talk about drug policy; that same day DEA agents raided a Medical Cannabis facility and the homes of its associates. On February 13th the San Francisco Chronicle ran the story of the raids on page A 23. The lack of urgency in the media inspired Cannabis Action Network to spearhead a national campaign to educate both the media and public about the battle that is being waged on California’s sick and elderly to deny access to the medication they need. Public support and sympathy remains strong for medical cannabis patients and the dispensaries, but it is no longer a front-burner issue. If the drug reform movement hopes to protect the medical marijuana laws in various states, it must begin a campaign aimed at winning the media war over Ashcroft’s policy and facilitating a well organized grassroots movement -- while building public and elite support for more effective drug policies. What’s needed is a coordinated, grass-tops and grassroots campaign that will generate press coverage and force the Bush Administration to back off. (Americans for Safe Access 2002).

Notably, ASA followed the same niche colonization pattern that earlier drug policy reform organizations followed. Like CAN, the Drug Policy Foundation, and the Marijuana Policy Project, ASA sprang from an existing organization to focus on one specific area of drug policy reform. Both ASA and the Drug Policy Alliance have become far larger and more influential than their organizational predecessors. In the

case of Americans for Safe Access, the newer organization has even outlasted the now dormant Cannabis Action Network.

ASA formed in the San Francisco Bay Area and began to work at the state level as an advocate, legal defender and media representative for a growing coalition of patients, providers, doctors and researchers. The creation of a growing number of legal medical cannabis patients provided the organization with a new population of participants and constituents. The organization was also able to raise money from dispensary operators as their number began to grow after 2005. ASA has played a crucial role in expanding the rights of patients, cultivators and providers since its formation in 2002.

Despite its advocacy efforts, patients who use marijuana medicinally are still subject to curtailments of rights that users of prescription opiates are not subject to. For example, in California, patients can still lose their jobs for testing positive for marijuana use, as upheld by the California State Supreme Court (*Ross v. Ragingwire*, 2005). In some counties, patients have been prevented from obtaining driver's licenses and have even had their children seized because of their status as medical cannabis patients. In addition to advocating for patients, ASA is the chief public voice for medical marijuana dispensaries.

In September of 2002, the Bush Administration made another strategic misstep by provoking a different type of response from the city of Santa Cruz. DEA agents raided and destroyed the WAMM collective garden in rural Santa Cruz County

on the morning on September 6th, a few weeks before the annual harvest.⁵ The raid would also elicit a concentrated, non-violent protest from WAMM members who gathered at the gate to the Corrals' home. The raid created a dynamic response from Santa Cruz officials, who distributed cannabis to WAMM members and other qualified medical patients at city hall in front of local and national news crews. The media spectacle complemented damning CNN footage from the September 6th raids that showed that DEA agents had handcuffed one multiple sclerosis patient to her wheelchair. The combination of city-level support for medical cannabis and its media representation proved to be powerful in building support for the fledgling movement in California and beyond (Chapkis and Webb 2008).

After the high profile raids and closure of the OCBC as an outlet for the dispensing of medical cannabis, activists and entrepreneurs continued to open in the state, but the relatively small number of storefront dispensaries continued to be largely concentrated in the greater Bay Area until 2006. After the OCBC was shut down by the DEA, a growing number of medical cannabis dispensaries began to set up shop in Oakland's economically blighted downtown district. By 2003 there were between ten to twelve dispensaries operating in downtown Oakland. The district became known as Oaksterdam; an homage to Amsterdam (Oakland plus Amsterdam) (Jones 2010). Although the numerous dispensaries brought much needed revenue to new restaurants, cafes and shops that sprung up with the increase in visitors to the district, their growth was not popular with everyone. City Council member Ignacio

⁵ This spectacle of destruction is depicted through security camera footage in the independent film "La Vie en Vert," a documentary about WAMM released in 2010.

De La Fuente (an opponent of needle exchange in Oakland) led the charge to cut down on the number of dispensaries in the area (Casey 2003). In the process of regulating Oaksterdam, the City of Oakland became the first in the state to issue concrete guidelines for the local governance of dispensaries. Part of Oakland's regulations prohibited on-site smoking and a cap of four dispensaries for the city of roughly 435,000. Oakland instituted dispensary regulations through Ordinance # 12585 on February 19, 2004 (Oakland City Council 2004), and then used civil law to force eight of the city's twelve dispensaries to close. The closing of Oaksterdam, spurred the development of new dispensaries in unincorporated Alameda county and San Francisco. It also inspired a ballot initiative campaign from Oakland cannabis activists.

Ballot Measures in 2004

In 2004, activists and dispensary operators in Berkeley and Oakland authored and sponsored ballot initiatives to assert more control over the local regulation of cannabis and medical dispensaries. In Oakland, activists sponsored Measure Z to move beyond medical marijuana by calling for plans to tax and regulate all adult cannabis use. In Berkeley, several dispensary operators banded together to lobby the Berkeley City Council to pass a new dispensary ordinance in April of 2004. The group mobilized a protest of 30 people at the April 20th meeting of the council, but ultimately had to rely on a ballot initiative that November (Artz 2004).

Led by the Cannabis Buyers Club of Berkeley, providers from the Berkeley Patients Group and the Berkeley Care Collective mobilized volunteers to gather

enough signatures to place Measure R on the November 2004 ballot. The initiative was titled the Patients' Access to Medical Cannabis Act (PAMCA for short), and the *Berkeley Daily Planet* said it could make Berkeley "the most pot friendly city in the nation." The authors of Measure R were quite expansive in what they sought from the city of Berkeley, including no limits on the number of dispensaries in the city and the ability to have control over dispensary zoning provisions. The zoning control was sought in response to the inability of the Cannabis Buyer's Club of Berkeley to move locations after it was forced to move in 2003 (Goldsberry Personal Communication 2011). Dispensary operators, activists and city council members supportive of their efforts were open to the initiative, but it ultimately failed to pass by a mere "170 votes" (Berkeley City Council 2009). When the Berkeley Patients group sued for a recount, Diebold, the corporation that manufactures electronic voting machines used in the election was unable to produce a paper trail, and a judge ordered the city to return PAMCA to the 2008 ballot. The 2008 version of PAMCA was authored thorough a collaboration of Berkley cannabis dispensaries and city officials. It passed as Measure JJ in 2008 (Goldsberry Personal Communication 2011).

In Oakland, cannabis activists authored Measure Z in response to the shuttering and dismantling of several dispensaries in the downtown Oakland area known as "Oaksterdam" in late 2004 (Jones Personal Communication 2011). Activists found two things wrong with the regulatory ordinance, the arbitrary cap of four dispensaries and the elimination of onsite consumption (which was important in fostering community among patients). Measure Z attempted to shape local political

opportunity structures that were amenable to the licit provision of cannabis for all adults (as opposed to an exclusively medical approach).

While Berkley's Measure R was defeated, Measure Z passed with a super majority. The measure called for some items that were unenforceable, including a provision that the city incorporate a plan to tax adult cannabis sales if the state laws changed to allow the sales to adults and a call for local officials to lobby federal law enforcement agencies to change cannabis policies. One item that had a lasting effect was the creation of a Measure Z Task Force to oversee the implementation of the initiative. Task forces and commissions would catch on in San Francisco and Berkeley a few years later. In the aftermath of the 2004 ballot initiatives, dispensaries in the Bay Area continued to operate in a similar manner; there was no upsurge in the number of dispensaries, and Berkeley and San Francisco followed the lead of Oakland in instituting dispensary regulations in 2005. At the state level, the California legislature passed State Bill 420 in 2003, and it took effect in 2004. Ultimately the law clarified the legal basis for dispensaries and called on county health departments to implement a voluntary state identification card program. After the bill took effect in 2004, the number of dispensaries outside the Bay Area, began to steadily increase. The development of early regulations, which limited the number of dispensaries in a given city, kept the number of dispensaries in the birthplace of medical marijuana relatively low when compared to Los Angeles (see figure 5.1)

Since 2004, Oakland has served as a unique laboratory for medical marijuana law, city regulations, new taxation schemes, and new business types (the OCBC 2.0,

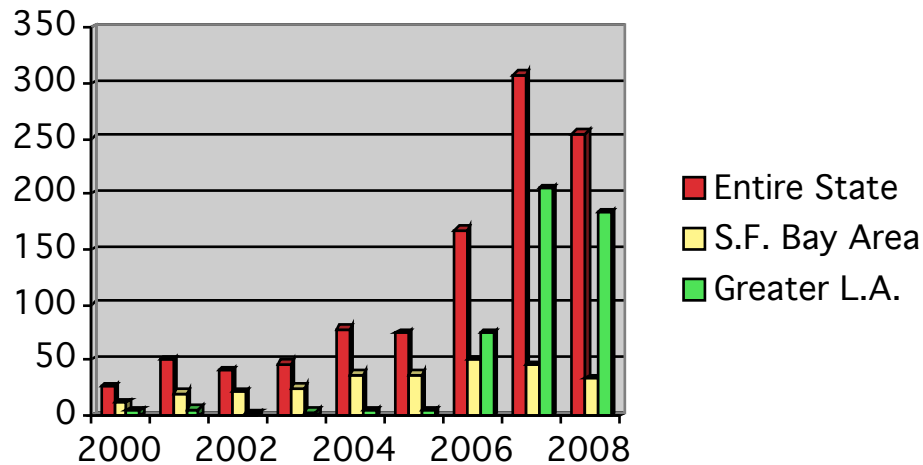
iGrow, Oaksterdam University and potentially huge mega grows). Americans for Safe Access also opened its headquarters in Oakland in 2004. In 2004 Oakland became the first city in the state to regulate dispensaries. Oakland is also home to Harborside Health Center, the largest dispensary in the state. Beginning in 2008, Harborside and its publicity hungry owner Steve D'Angelo began to increase the media profile of their growing and highly photogenic dispensary. In the summer of 2009, Oakland became the first city in the state to institute a special local business tax on dispensaries. Oakland also served as the headquarters for the 2010, Proposition 19 campaign, to legalize and tax marijuana in California.

In the summer of 2010, the city councils in Berkeley and Oakland have sought to expand their abilities to tax and regulate medical marijuana production and provision. These two cities have been the most progressive and groundbreaking with regard to medical marijuana governance. The examples they provide further illustrate the importance of local political context on determining the character of medical marijuana in California. Activists and entrepreneurs now wield political power and have forced city governments to give them a seat at the table. However, the limits of favorable local political opportunity structures in guarding against an unfavorable federal context have been exposed the federal crackdown that began in the fall of 2011. This crackdown has resulted in the closure of numerous dispensaries across the state, including several in San Francisco and Berkeley.

Los Angeles

Los Angeles represents a middle ground in the spectrum of regulatory approaches to medical cannabis. While cities in the Bay Area have taken a proactive approach to regulating dispensaries, and San Diego has relied on a policy bent on dispensary prohibition, Los Angeles has taken a hands-off approach. In effect the hands-off approach has generated a regulatory vacuum in the second largest metro area in the U.S. Essentially, city leaders have been reluctant to embrace either a regulatory or prohibitionist approach to dispensaries. This impasse was created by some city council members favored regulation, while others favored prohibition. This approach has led to a steady increase in the number of dispensaries, little to no oversight in how they operate and whether they are living up to the spirit of Prop. 215 and SB 420. While a cooperative effort between progressive city politicians and politically active dispensary operators led to the eventual regulation of dispensaries in the Bay Area, the free market was the ultimate regulator in Los Angeles, which led dispensaries to take a different form in Southern California.

Figure 5.1: Medical Cannabis Dispensaries by Region and State



This chart shows the number of storefront dispensaries that were operating in the Bay Area, Los Angeles and the state of California over an eight-year period. These numbers are fairly conservative when compared to those in other sources (Geluardi 2010; Jacobson et al. 2011). To compile these totals I used the “wayback machine” feature on the website Internet Archive (internetarchive.org). Internet archive is a digital archive of film, video, and printed materials, that also features an archive of website captures dating back to the mid-1990s. I used this feature to visit the archived “captures” of California Norml’s website. I visited the list of dispensaries and delivery services on California Norml’s website for each year’s capture and then counted all the dispensaries that the site listed by these two regions. I eliminated the names of obvious delivery services from the count, so these numbers refer specifically to dispensaries with physical addresses.

The Los Angeles dispensary boom did not begin until late 2005. Prior to 2005, there were only four dispensaries operating in Los Angeles County. According to the website of California NORML, between two to four dispensaries operated in Los Angeles from 1999 to 2004. The largest dispensary in Los Angeles during the early phase of medical marijuana was Scott Imler’s, which was closed in October

2001. The Los Angeles Police Department was hostile to the operation of dispensaries, and LAPD Chief Bratton declared dispensaries magnets for crime in 2006 (Jacobson, Chang, Anderson, MacDonald, Bluthenthal, and Ashwood 2011). Despite this climate, the number of dispensaries began to grow a year after SB 420 went in to effect in 2004. In 2005, the California State Board of Equalization also started to collect sales tax on medical cannabis sold through dispensaries, which lent more legitimacy to dispensaries at the state level.

In Los Angeles, the process of regulating dispensaries has been long and arduous. Don Duncan, who had worked with CAN and founded Americans for Safe Access in 2002, and then opened two dispensaries in Los Angeles in 2005, played a large role in lobbying the city to institute regulations in 2006 and 2007. In 2006, as the number of dispensaries was rising and many were operating according to the dictates of the free market (with ubiquitous neon green pot leaves appearing in storefront windows in the tourist friendly areas of Santa Monica and West L.A.), medical cannabis activists with Americans for Safe Access were trying to influence city leaders to institute dispensary regulations. Duncan and other dispensary activists were appointed to participate in a City Hall Working group in 2007. Although the city drafted an “Interim Control Ordinance” in August 2007, City Attorney Rocky Delgadillo abruptly dissolved the working group in December 2007 (McDonald and Pelisek 2009).

The “Interim Control Ordinance, No. 179027” prohibited new dispensaries from opening and required all operating dispensaries to register with the city. While

the city council was meeting to discuss the ordinance, the DEA raided 10 dispensaries in Los Angeles, including the California Patients Group a dispensary operated by Duncan. Symbolically this raid sent the message that the DEA did not want the city to regulate (and further legitimize) dispensaries in the city. According to the ordinance “an inter-departmental task force, led by the Planning Department” would work to “establish viable regulations” for dispensaries in Los Angeles (Los Angeles City Council 2007). Nearly five years later the city still does not have a viable ordinance as of April 2012.

Although the ordinance forbade the opening of new dispensaries, it gave existing dispensaries 60 days to register with the city clerk, by presenting several documents including a “State Board of Equalization seller’s permit.” The requirement of abiding by the State Board’s requirements, demonstrate how a change at the state level broadened the local political opportunity structure for dispensaries in Los Angeles. Under the moratorium, 186 dispensaries that proffered the proper documents and registered with the city before an October 2007 deadline, were allowed to remain open in the city of approximately 3.7 million people. The Interim Control Ordinance was worded to allow for dispensaries that had not registered with the city to claim a “hardship exemption” that would allow them to remain open until the city council voted on whether they qualified to register with the city. Although the moratorium was intended to curb the rapid growth of dispensaries, it effectively spurred hundreds of operators to open dispensaries by claiming the “hardship exemption.” By June 2009, city officials estimated that 533 dispensaries had opened

after the passage of the interim control ordinance claiming the exemption, in addition to the 186 that were permitted to operate.

There was little impetus for city leaders to take the lead on instituting regulations (McDonald and Pelisek 2009; Jones Personal Communication 2011). In the smaller cities of San Francisco, Oakland and Berkeley, officials were more responsive to activists and aware of the importance of medical marijuana provision to their constituents (through state and local ballot initiatives and their wide margins of victory). In Los Angeles, dispensaries clustered in certain districts of the city and were virtually absent in others. According to McDonald and Pelisek (2009: 4), “pot sellers concentrate in wealthier areas including Westwood and the West Valley, tourist areas such as Venice and Melrose, and nightlife districts such as Hollywood.” This arrangement contributed to polarization on the city council around the issue of regulating dispensaries. In nearby West Hollywood, city officials placed a moratorium on new dispensaries in 2005, closed several that had opened, and capped the number of dispensaries allowed in the small city at four (Hoeffel 2009c).

When Los Angeles City Attorney Rocky Delgadillo assumed control of drafting a more permanent dispensary ordinance, he embraced language that would forbid over the counter cannabis sales in the city entirely. This began a trend that was continued by Delgadillo’s successor, City Attorney Carmen Trutanich. When Trutanich took over in July of 2009, he also pursued a strict interpretation of 215 and SB 420, subscribing to the legal theory that the laws did not permit the sale of medical cannabis. Despite the strong orientation of such a stance, the number of

dispensaries had continued to rise during Delgadillo's term as City Attorney. After Trutanich took over, a report by the L.A. Weekly detailed a two month investigation that located "more than 400 open 'hardship' pot outlets, with a few dozen more unverifiable, and another 142 left of the 186 that opened before the 2007 moratorium, for a total of more than 540 pot dispensaries and delivery services citywide" in November 2009 (McDonald and Pelisek 2009: 3).

In Los Angeles, the city attorney Carmen Trutanich and L.A. county district attorney Steve Cooley collaborated to block the adoption of dispensary guidelines that were favorable to activists in the medical marijuana community. Some of the chief sticking points centered around on-site consumption, and using multiple independent suppliers (as opposed to growing all cannabis on site or at one location). Trutanich and Cooley based their opposition on their narrow reading of California's CUA, arguing that state law did not allow "over the counter" sales of cannabis. In October 2009, Cooley stated, "The vast, vast, vast majority, about 100% of the dispensaries in Los Angeles County and the city are operating illegally, they are dealing marijuana illegally, according to our theory....The time is right to deal with this problem" (Hoeffel 2009a). Cooley and L.A. county Sheriff Baca had encouraged many cities in the county to ban the operation of dispensaries entirely. Based on their interpretation of the law as not allowing sales, Cooley and Trutanich influenced the council's approach to ordinances in 2009. By November 2009, the city council had reviewed five draft ordinances and decided against using any of them (Hoeffel 2009c).

On January 26, 2010, the Los Angeles City Council (2010) finally passed Ordinance # 181069, an 18-page document intent on regulating dispensaries in the city. Provisions of the ordinance generated controversy among dispensary and patient advocates immediately (Guerrero 2010; Hoeffel 2010a). The regulations allowed the estimated 150 dispensaries that were open prior to the 2007 moratorium to remain open, and capped the number of additional dispensaries that were allowed to operate at 70. Dispensaries would have to submit to an application process to stay open, and the intended impact of the ordinance was to cut the number of dispensaries in L.A. from roughly 500 to a little over 200. According to Hoeffel (2010a), “the director of the Union of Medical Marijuana Patients...[called the ordinance]...a disaster for patients.” Americans for Safe Access and two dispensaries challenged the ordinance in court one month after it became law. According to their suit, the ordinance, “severely restricts access to medical marijuana by effectively forcing plaintiffs, as well as the vast majority of collectives in the city, to close their doors” (as quoted in Barboza 2010). According to Barboza (2010):

The suit alleges that the ordinance violates state law, and the plaintiffs seek a court injunction and restraining order to stop it from being enforced. Dispensary operators object to the ‘onerous restrictions’ of the law, such as a rule giving them only seven days after the ordinance takes effect to relocate to 1,000 feet away from schools, parks and places of worship but does not provide maps to show where they can operate (P. 1).

Such concerns about zoning and proximity to sensitive sites (schools and parks) would prove to be of crucial importance across the state in the fall of 2011.

Americans for Safe Access and an organization called GLACA, Greater Los Angeles Collective Alliance hosted a small rally at Los Angeles City Hall in

September 2010 to protest the ordinance. The sponsors of the event were disappointed by a low turnout at the event (approximately 80 people attended). According to prominent L.A. activist Yamileh Bolanos, “I think it’s awful that there’s so much lack of concern by the patients of Los Angeles” (as quoted in Hoeffel 2010b). The lack of mobilized activists who were willing to protest may reflect how complacent Los Angeles cannabis patients had become in an environment where access to cannabis was prevalent, and patients primarily saw themselves as consumers and customers and not activists. Contributing to a lack of activism, many dispensary operators in the city did not have the historical background in activism that some of the longest tenured operators in the Bay Area had. In the context of little mass activism and a city government that was not supportive, professional advocates⁶ used lawsuits to advance the interests of dispensary operators.

On December 10, 2010 Los Angeles County Superior Court Judge Anthony Mohr granted an injunction that barred the city from enforcing aspects of its dispensary ordinance. Judge Mohr ruled in favor of the plaintiffs, after “more than 100 dispensaries...filed at least 42 lawsuits challenging the ordinance” (Hoeffel 2010c). Although advocates and dispensary operators touted the injunction as a victory, its opponents including the Eagle Rock Neighborhood Council, argued that the injunction amounted to the judge telling the council to revise the ordinance.

⁶ This point relates to the debate discussed in chapter two about the role of professional advocacy organizations and whether or not they mobilize participants. In this instance, I contend that it was the industrialization of medical marijuana that was leading participants to view themselves as consumers, as opposed to viewing themselves as activists.

Judge Mohr's ruling stated that "the ordinance had violated the due process rights of the dispensaries, because it [closed] them without a hearing, and the privacy rights of patients because it required dispensaries to make records on members available to the police" (Hoeffel 2010c).

In response to the injunction, the Los Angeles City Council passed an amended ordinance on January 21, 2011, that employed a lottery to select 100 dispensary operators from a pool of operators that were operating prior to the 2007 moratorium. Dispensary advocates sued the city for the lottery feature of the revised plan, calling it unfair and ignorant of the spectrum of dispensaries operating in the city (Hoeffel 2011a). In October 2011, the idea of a lottery was called into question by an L.A. Appeals court decision that ruled against a lottery plan in the city of Long Beach, on the basis that the city was engaging in behavior that violated federal drug law (Hoeffel 2011b). This decision, known as the Pack decision, (Pack vs. Long Beach), will be reviewed by the California Supreme Court in 2012 (California NORML meeting 2012). As the conflict over dispensaries raged on throughout 2011, the City Council put an initiative on the ballot to tax dispensaries in April 2011. Measure M passed with 59% of the vote and allowed the city to collect a 5% tax on gross receipts at dispensaries (Powell 2011). Advocates did not write the initiative, and both dispensary advocates and dispensary opponents alike opposed it. In the wake of failed ordinances and successful legal challenges from advocates, City Council member Jose Huizar proposed banning all dispensaries outright in late November 2011. Many advocates doubted that such an effort would be successful.

As of March 2012, Los Angeles still does not have viable dispensary regulations, but the city is able to collect tax revenue from dispensaries, which guards against an outright ban in the future.

When comparing the city of Los Angeles to Bay Area cities, key elements of local political opportunity structures are markedly different. Los Angeles lacked the ballot initiatives that paved the way and signaled to officials that public support was present. Los Angeles also featured officials who were not as open to the goals of the movement. The stance of city attorneys played a crucial role in determining the approach of the city to medical cannabis dispensaries. City attorney Delgadillo and his successor Trutanich, chose to embrace a strategy that auspiciously sought to block any retail sale of medical cannabis. In short, a personnel change of this crucial position in the nexus of city politics had a dramatic effect on the approach city government took to the regulation of medical cannabis dispensaries. Although Los Angeles did not block all sales of medical cannabis outright, the embrace of a no sales position on the part of key personnel influenced a regulatory ordinance that dispensary operators found to be excessively restrictive.

L. A. County District Attorney Steve Cooley also embraced the prohibition of all retail sales of medical cannabis in the city. In 2010, Cooley made his opposition to medical cannabis dispensaries part of his bid to become California Attorney General, perhaps his location in Los Angeles made him believe that opposition was a safe political bet. Ironically, Cooley was defeated by San Francisco County Attorney, Kamala Harris, a champion of medical cannabis. Medical marijuana activists and

organizations campaigned against Steve Cooley, who narrowly lost the coveted state political post.

San Diego

The city and county of San Diego represent the punitive end of the regulation spectrum when compared to the San Francisco Bay Area and Greater Los Angeles. The city of San Diego took a remarkably different tack with dispensaries than both Los Angeles and the Bay Area. Where the city of Oakland has become increasingly hospitable to dispensaries and marijuana law reform in general, and Los Angeles has taken a de facto hands off approach to dispensary regulation while the number of dispensaries exploded, the city and county of San Diego have been hostile to medical marijuana and dispensaries from the passage of Prop. 215 until March 2012. In San Diego, local governments have both cooperated with and sought out the imprimatur of the federal government to combat the proliferation of dispensaries, and block the adoption of certain provisions required by state law under SB 420.

San Diego officials launched frequent multiple-dispensary raids and cooperated with federal law enforcement agencies to go after medical marijuana dispensaries. Although hundreds of dispensaries and collective cultivation sites have been raided since the early 1990s, in San Diego county the DEA and local law enforcement agencies have raided multiple dispensaries on at least five different occasions since 2005 (California NORML 2008). Similar to Los Angeles County, the specific actors holding office in San Diego, have played a key role in maintaining an inhospitable political opportunity structure. Other factors that contribute to San

Diego's unfavorable political opportunity structure include a lack of local laws (achieved through ballot initiatives) that codify the regulation of dispensaries, police and sheriff's departments who favor the prohibition of dispensaries and cooperation with federal authorities, city council members unsympathetic to dispensary regulation and no city council resolutions in favor of medical cannabis and medical cannabis dispensaries.

San Diego is somewhat of an anomaly among coastal cities in California. In addition to being far less liberal than its neighbors to the north, San Diego also hosts several large military installations. The electorate of San Diego County voted for George Bush in 2000 and 2004. Although voters narrowly approved Prop. 215 in 1996, it has proven to be the least hospitable large county to medical marijuana, especially during the tenure of Republican District Attorney Bonnie Dumanis.

Dumanis has made the opposition to medical marijuana dispensaries a hallmark of her administration. Whether her vehement opposition is a political device or born from an earnest desire to rid the county of the menacing effects of cannabis, she has repeatedly used county law enforcement to shut down dispensaries. Unlike other parts of the state (with a few exceptions), local and federal law enforcement agencies continued to raid dispensaries even after U.S. Attorney General Eric Holder announced that federal law enforcement agencies would only take action when state laws were being broken on March 18, 2009. After this pronouncement, which became known as the Ogden Memo, federal agencies reduced medical marijuana enforcement in California until October 2011. Despite this change in

federal enforcement, local authorities continued to close dispensaries before and after the release of the Ogden Memo.

Activist Steve McWilliams became the first test case for San Diego County when he was arrested in January 1998 while transporting young marijuana plants to a qualified patient. The next day, the San Diego Narcotics Task Force raided the North County Cannabis Cooperative that McWilliams was running and they destroyed hundreds of cannabis plants for over 40 patients (Thornton 1998). The cooperative was not a storefront dispensary but a collective of cannabis growers using one space to cultivate cannabis. McWilliams was not charged in the raid. He and seven other patients opened another gardening collective that they named Compassionate Gardens in San Diego. The San Diego Police shut down Compassionate Gardens, too, in July of 1999, (Bock 2000). McWilliams became the face of medical marijuana in San Diego after he handed out medical marijuana at city hall as a political protest in 1999. A successful author, McWilliams was forbidden to mention that he used marijuana to manage AIDS at his trial for running Compassionate Gardens, his punishment was being denied the use of cannabis. He died on June 14th, 2000 after not being able to keep his AIDS medication down without the assistance of cannabis (Bradford 2000), and became a martyr for the early movement.

San Diego adopted guidelines for dispensaries in 2003, but they were largely restrictive and intended to prevent dispensaries from operating. After S.B. 420 went into effect in 2004 to further clarify the CUA, the number of dispensaries in San Diego began to grow. By 2005 there were an estimated 29 dispensaries in San Diego

County, according to “the DEA’s acting special agent in charge” (McDonald 2005). During a large-scale investigation in the county in 2005, the DEA estimated that 16 of the dispensaries had closed voluntarily. Some had closed in response to the Supreme Court’s decision in *Raich v. Ashcroft* in 2005. According to the decision, the federal government did not recognize the legality of medical marijuana in the eleven states that allowed its use (McDonald 2005). On December 12, 2005, the DEA in concert with local law enforcement agencies including the San Diego Police Department, and San Diego Sheriff’s deputies raided 13 dispensaries in San Marcos and San Diego (McDonald 2005). Activists with San Diego NORML and Americans for Safe Access decried the raids as collusion between local and federal authorities in defiance of state law.

The raids came a month after the San Diego County Board of Supervisors voted 3-2 against implementing a provision in S.B. 420 that called on all county health departments in the state to provide voluntary identification cards to patients in each county (McDonald 2005). Patient and dispensary advocates had worked with the legislature to draft SB 420, and they sought the provision of county ID cards to make it easier for local law enforcement officials to identify legally qualified patients. According to activists with Americans for Safe Access, the timing of the raids sent the message that local government officials were working against the state law.

According to ASA spokesperson Hillary McQuie,

It seems like a large operation designed to intimidate the medical cannabis community in San Diego....Given the timing with the board of supervisors' threat to sue the state over Proposition 215, we're concerned there's collusion between [local] and federal officials. (as quoted in McDonald 2005).

A lawsuit against the I.D. card provision was indeed on the table for San Diego County supervisors. The partnership between local and federal law enforcement agencies would become a prominent feature of the San Diego political opportunity structure. The arrangement created a dilemma for the San Diego County District Attorney's office on the question of whether to prosecute dispensary owners in local or federal court (McDonald 2005).

A second multiple-agency task force raid, featuring cooperation between the DEA, the San Diego Police, and the San Diego Sheriff's Department, took place nine months later on July 5, 2006. In that multi-agency raid, eleven dispensaries were closed in an effort to arrest six people on drug trafficking charges (10 News 2006). In response to the raid, District Attorney Dumanis issued the following statement:

Our office has no intention of stopping those who are chronically ill with AIDS, glaucoma and cancer from obtaining any legally prescribed drug, including medical marijuana, to help them ease their pain....Prop. 215 is being severely abused, and it has led to the neighborhood pot dealer opening up storefronts from La Jolla to Ocean Beach to North Park. (as quoted in 10 News 2006).

This statement makes clear that Dumanis is specifically focused on closing dispensaries, but not necessarily opposed to the idea of medical marijuana. Despite this statement, the policies she favored effectively eliminated the supply of medical cannabis to qualified patients.

In addition to occurring more frequently, raids on dispensaries in San Diego are distinct from raids in other parts of the state in several regards. First, when the Drug Enforcement Agency raids dispensaries in San Diego, they usually raid multiple

dispensaries in the county at once (or in rapid succession). In other parts of the state, law enforcement agencies sometimes raid multiple dispensaries on the same day (as with a concerted raid of ten separate dispensaries in Los Angeles in July 2007), however in San Diego, law enforcement agencies have raided multiple dispensaries on several occasions. In San Diego local law enforcement agencies work collaboratively with federal law enforcement agencies. In other parts of the state, including the Bay Area and Los Angeles, police sometimes engage in “crowd control” by monitoring the protests that often spring up in response to raids (Hymon 2007; Oaksterdam Raid 2012).

Earlier in 2006, San Diego County Supervisors carried through with their threat and sued the California Department of Health over the provision of I.D. cards as mandated by the Medical Marijuana Program Act of 2003 (S.B. 420). San Diego NORML filed the suit in response to a threatened suit, so the case became known as San Diego County v. San Diego NORML. That summer, several national drug policy reform organizations, including the ACLU Drug Policy Reform Project, the Drug Policy Alliance, and Americans for Safe Access, filed “a motion to intervene” and joined the suit. In December 2006, San Diego Superior Court Judge ruled against the county’s challenge and argued that federal law did not pre-empt the county from providing I.D. cards in line with the Medical Marijuana Program Act. According to Americans for Safe Access (2010):

On July 31, 2008, the Court of Appeal for the Fourth Appellate District, Division One issued a published decision denying the Counties' position. On October 16, 2008, the California Supreme Court denied the Counties' Petition

for Review and the United States Supreme Court denied the Counties' cert. petition on May 26, 2009, rendering the case final for all purposes.

This decision forced the county to provide I.D. cards to qualified patients, and demonstrated that the county could not defer to federal law while ignoring state law. This in effect demonstrates that state political opportunity structures can sometimes trump federal arrangements with regard to medical marijuana in the short run, but overall federal arrangements are an important component to the layers of political opportunity structures that affect medical marijuana provision.

However, while the County was fighting to prevent the provision of I.D. cards (presumably on symbolic grounds), the DEA and a San Diego County Narcotics Task Force conducted another raid on four dispensaries on August 5, 2008. After the U.S. Supreme court refused to hear an appeal of the “County of San Diego v. San Diego NORML” case, and the county began to issue I.D. cards in September 2009, a San Diego County Narcotics Task Force and the DEA raided 14 dispensaries in San Diego County. The raids used maximum theatricality, employing S.W.A.T. style tactics and even forcing a wheelchair bound man into a police car. This particular raid is noteworthy for its symbolic timing with respect to the three-year-long battle to avoid the provision of I.D. cards, and it was the first major raid (on multiple dispensaries) that occurred after the Ogden Memo of March 2009. Although raids had been the preferred tactic of San Diego law enforcement for dealing with dispensaries, the City of San Diego pursued a different tack in early 2011, using zoning laws to hamstring the ability of dispensaries to operate without banning them outright (California NORML 2009).

City governments hostile to dispensaries began to use zoning law, dispensary bans, and dispensary moratoria in 2007 (Americans for Safe Access 2011).

Numerous smaller cities moved to ban dispensaries outright, and other small cities moved to use city and county zoning guidelines to effectively eliminate the possibility of dispensaries opening. Zoning law has been one of the chief tactics that city attorneys and city governments use to curtail the formation of new dispensaries. In order to move beyond the intransigence of cities on allowing new dispensaries to open, activists have led ballot initiative drives both proactively and reactively. In 2011, the City of San Diego played host to a chess match between city officials intent on restricting medical marijuana dispensaries and advocates and organizations that sought to encourage the legitimacy and regulation of dispensaries in San Diego.

On March 28, 2011, the City of San Diego approved (5-2) Dispensary Regulations that medical marijuana organizations deemed too restrictive (Cadelago 2011a; Conlan 2011). According to California NORML director Dale Gieringer (California NORML 2011) the regulations relegated dispensaries to an industrial district in the city that was difficult for many patients to reach. According to Gieringer, “Both L.A. and San Diego...badly botched the job [of regulating dispensaries], by trying to go overboard on killing the industry.” In response to the unworkable city regulations, an organization affiliated with San Diego NORML and a new organization called California Patients Rights (CPR) spearheaded a referendum to repeal the ordinance. CPR was formed to raise funds for the professional gathering of signatures to place a referendum on the city ballot. Referendums are one tactic in

the repertoire of the medical marijuana movement. They are somewhat of an anomaly in local politics because they depend on gathering the approval and signatures of local voters, which requires either money or time (i.e. resources in resource mobilization theory). Faced with a powerful referendum drive, the City Council of San Diego voted to repeal their March regulations on July 24, 2011 (Cadelago 2011b). In late August of 2011, San Diego City Attorney Jan Goldsmith, announced that all dispensaries in the city would be subject to civil suits that would effectively close them. According to Deputy City Attorney Brannan (as quoted in Cadelago 2011c):

Medical marijuana dispensaries are not a permitted use within any zone in the city of San Diego. Therefore, all medical marijuana dispensaries operating within the city of San Diego are in violation of the law and must cease operating immediately.

An impending change in federal medical marijuana policy would grant city leaders in San Diego a new way to combat dispensaries in October 2011. On October 7th, 2011, the four U.S. attorneys charged with enforcing federal law in California made a coordinated announcement that they would be ramping up the federal government's anti medical marijuana efforts. During the following week, the U.S. attorneys sent out letters to the landlords of dispensaries throughout the state. As discussed on pro-medical marijuana websites and blogs, these letters had a far more chilling effect than law suits and even raids on the operations of several dispensaries. This "crackdown" has played out quite differently in the three locales discussed in this chapter. Favorable local political opportunity structures have not been entirely effective in protecting dispensaries from the crackdown, but local officials have

responded differently to the change in federal policy. These differences will be revisited in my final concluding chapter that analyzes how the movement transformed into industry and what that change means for the future of the movement.

My three-city comparison demonstrates that three models of dispensary regulation emerged from three different political opportunity structures in California. In the San Francisco Bay Area activists and officials created a “pro-regulation” model. The political opportunity structures of San Francisco and Berkeley were expanded by activists in the 1970s, and opened further through the ballot initiatives, lobbying, rallies, and participation in city task forces. Ballot initiatives provided signals to local politicians that the electorate supported medical cannabis, which allowed officials to work with activists to shape dispensary regulations that balanced the needs of city governments, citizens, and cannabis patients. In Los Angeles a “*laissez-faire*” model arose from a lack of political will and a consequent excess of entrepreneurial zeal. With no local ballot initiatives, ambiguous city council resolutions, and divisive city politics, the free market became the chief regulatory mechanism for dispensaries, and their number grew rapidly. The high number and overly commercial appearance of L.A.’s dispensaries ultimately hurt the wider medical marijuana movement’s public image, and left patients ill-equipped to use social movement tactics to lobby for balanced regulations. San Diego adopted a “prohibitionist model” to dispensaries. With no local ballot initiatives, hostile city and county officials, no viable regulations, and overly punitive law enforcement agencies, activists were not able to influence a hostile political opportunity structure.

This arrangement resulted in a repressive climate of frequent multi-agency raids and no stable sources for the provision of medicine to patients. A climate of repression and instability created an oppressive environment for cannabis patients and providers alike.

CHAPTER VI: FROM MOVEMENT TO INDUSTRY

From 1997 to 2008, in addition to cities and counties taking different approaches to the existence of medical cannabis dispensaries, and activists and organizations playing a role in shaping local political opportunity structures, something else was happening with the medical marijuana movement. Although medical marijuana had begun as a social movement, it evolved (but not entirely) into an industry. The key actors had not changed entirely, but the social field that they were operating in had shifted. While medical marijuana activists originally used civil disobedience, protest, ballot initiatives and lobbying to win public and official support, by 2009 medical cannabis providers were concerned with winning market share through advertising, “best practices,” large trade show events, and innovative promotions.

New types of events, auxiliary businesses, and advertising, made the shift into the field of commerce increasingly apparent from 2009 to 2012. At the federal level, a perceived change in political opportunity structure encouraged entrepreneurs to enter the emergent field of semi-licit cannabis commerce in 2009. This change occurred when active and potential cannabis providers interpreted an announcement by U.S. Attorney General Eric Holder as a signal that federal enforcement efforts to stop medical cannabis provision would cease entirely. A ballot initiative campaign to tax and regulate all forms of adult cannabis use, i.e. a general decriminalization of cannabis use, exposed key fault lines between the medical marijuana industry and the wider cannabis movement in 2010. Schisms between medical cannabis providers and

proponents of full cannabis legalization further illustrated how many medical marijuana providers no longer saw themselves as part of the cannabis movement, but as business owners whose interests were at odds with the goals of the wider cannabis movement. In late 2011, the re-assertion of federal opposition to medical cannabis provision has forced medical cannabis providers and activists to re-enter the field of social movement activity to combat the federal effort to eradicate their existence. The selective form that the federal crackdown took demonstrates its symbolic content as some of the most prominent and locally supported cannabis providers have been targeted, while some of the less activist oriented providers have been left alone.

As the number of dispensaries grew and the movement increased its public profile through embracing advertising and hosting trade show events, the representation of the movement in popular culture has proliferated. A growing number of journalists, filmmakers, and authors began to highlight the commercial and industrial dimensions of medical cannabis provision in California in 2009. Journalist John Geluardi (2010) focuses on the commercialization of the medical cannabis movement in his character driven book *Cannabiz: The Explosive Rise of the Medical Marijuana Industry*. A master's thesis paper at the University of Southern California discusses the auxiliary industries that have grown to support the business of medical cannabis (Ma 2010). A *National Geographic Explorer* episode titled "Marijuana Nation" was the first cable television program to present the economic and social dimensions of cannabis to a mass audience in December 2008. In an exposé flavored documentary produced by CNBC titled "Marijuana Inc.", director and host Trish

Regan takes viewers on a potentially scandalous tour of the commercial side of marijuana. *PBS Frontline* produced a more informative (if less alarmist) two-part look at the intricate contradictions between state and federal approaches to the regulation of medical cannabis, produced in July and November 2011. Numerous independent documentary filmmakers produced films about medical marijuana and the marijuana industry in the 2000s.

Dispensaries and grow sites are the most tantalizing subject for televised depictions of cannabis use and medical cannabis. Dispensaries offer a specific locale for drug policy reform and they present a visual spectacle that challenges the image of drug commerce as dangerous and dependent on unsavory back alley transactions. Cannabis provision through storefront locations with all of the machinery and accoutrements of free market capitalism is shocking and fascinating to those both enthralled with, and afraid of, cannabis. Perhaps the most threatening aspect of medical cannabis dispensaries to those invested in drug prohibition, is not their ability to taint the medical field with their existence, but their ability to so thoroughly penetrate the commercial realm. In our capitalist culture, commerce, (or alternately, the “private sector”) has a privileged veneer of sanctity that the public sphere cannot compete with. In the United States, the most cherished and emblematic subject is not the firefighter or even our venerable “troops” it is the “small business owner.” The synergistic attraction of cannabis and commerce allows for its spread and co-optation by actors not normally associated with either the semi-licit medical cannabis movement or underground economy of cannabis.

The existence of dispensaries has proven to be the most controversial difference between state medical marijuana laws. The laws governing the medical use of marijuana differ significantly in other regards in the seventeen states where medical marijuana laws have passed. Key areas of difference include:

- How laws were passed (legislatively or through ballot initiative)
- The specific conditions that qualify patients for legal status
- Whether or not cultivation is permitted.
- Reciprocity between states with medical marijuana laws.

Until 2009 when dispensaries began to appear on a large scale in Colorado (Brady 2009), they were only found in California. In addition to Colorado and California, the laws of Maine and the District of Columbia allow for the existence of dispensaries. In California, dispensaries have attracted the attention of both federal and local law enforcement authorities and the news media.

From Movement to Industry

My discussion of how medical cannabis has been transformed from movement to an industry is loosely informed by Bourdieu's notion of fields and recent sociological work that theorizes how social movements contribute to the development of new industries. According to Lounsbury, Ventresca, and Hirsch (2003: 77): "the early social movement promoting recycling practices contributed to basic changes in field structure and discourse that altered an existing U.S. Solid waste management field frame, and enabled the emergence of a for-profit recycling industry." They continue, "marginal practices promoted by fringe actors can provide the basis for a

new industry as a result of political mobilizations that alter established structures and meaning and resources which are upheld by field frames” (Lounsbury et al. 2003: 77). Although there are key differences between the emergence of the recycling industry and the emergence of the medical cannabis industry, undeniably the industrialization of medical cannabis occurred because the movement phase altered the “field frames” that upheld the image of cannabis as a dangerous and illicit substance. The shift in frame and consequent industrial scale production also occurred because masses of people came forward as patients, which in turn created both demand and political will. Essentially, the medical cannabis movement phase (from roughly 1990 through 2007) was able to semantically repackage a substance that had been thoroughly stigmatized into something that was therapeutic, safe, and legitimate.

Two events occurred in 2008 and 2009 that sent the message to medical cannabis providers and activists that the state and federal opportunity structures for dispensary operators had improved and become more hospitable. The first was the issuance of guidelines for dispensaries by then California Attorney General Jerry Brown in August 2008. The second was the statement by U.S. Attorney General Eric Holder in October, 2009, that medical marijuana providers who were in compliance with state medical marijuana laws would no longer be subject to federal law enforcement efforts to stop them. According to Mikos (2011: 638) the policy “to cease DOJ enforcement of the federal ban” against medical marijuana represented a significant break from the policies of the three previous presidential administrations.

The new policy became known as “the Ogden memo,” after the deputy U.S. Attorney who formally announced the policy change in a memo to U.S. Attorneys in medical marijuana states. The Ogden memo was trumpeted as a victory by numerous organizations in the drug policy reform movement (see Chapter 3) and as a welcome departure in editorials in print and on the Internet (Mikos 2011).

State and local officials friendly to medical cannabis and medical cannabis providers interpreted both memos as green lights to continue local efforts to regulate and tax the growing industry of medical cannabis (Geluardi 2010; PBS Frontline 2011a). In Mendocino County, Sheriff Tom Allman instituted a zip tie program that allowed medical cannabis growers who registered with the county to cultivate up to 100 plants, as long as they paid a fee to zip tie each plant and allowed Sheriff’s deputies to check on their compliance with the program (PBS Frontline 2011a). Oakland became the first city in the state to tax the gross earnings of medical cannabis dispensaries (in addition to state sales tax required on each purchase) in July of 2009 through the passage of Measure F, passed by 80% of voters (Smart Voter 2009). Dispensary operators in the city including Richard Lee of Café Blue Sky and Oaksterdam, and Steve DeAngelo of Harborside Health Center, authored Measure F (Geluardi 2010). Berkeley instituted a city level tax through city council initiative Measure S, approved by voters in November 2010 (Dinkelspiel 2010). Los Angeles followed with Measure M, which levied a city tax on dispensaries, in 2011.

To understand how the phenomenon of medical marijuana changed from a social movement into an industry, it is useful to look at the types of actors in the

movement and how they have grown and shifted over the past two decades. What began as a coalition of marijuana law reform activists and medical marijuana users soon enlisted two new types of actors; medical doctors who recommended cannabis to a growing group of medical cannabis patients, and activists and entrepreneurs willing to risk local and federal prosecution to provide cannabis through dispensaries and grower cooperatives. Often hidden from public view, cannabis growers facilitated the provision of medicine to dispensaries and had a financial stake in the emergent field of medical marijuana. In 2002, Americans for Safe Access entered the fray and began lobbying and advocacy work for patients and dispensary operators alike. As demonstrated by figure 5.1, until 2006 and 2007, the number of dispensaries was so low that owners were more concerned with federal and local prosecution than with competition from other dispensaries. As the number of dispensaries began to increase across the state and the concentration of dispensaries in specific locales grew, operating as businesses in the field of commerce -- and not as a new drug policy modality on tenuous political and legal footing -- became the organizing concern. Increasingly accustomed to tax revenue, government officials at the state and local level (in some cases) allowed the movement cum industry to operate unhindered by the threat of legal prosecution.

As the movement shifted into an industry, numerous businesses found a niche in the provision of medical marijuana. Such auxiliary businesses include companies that provide insurance to cannabis dispensaries (Geluardi 2010), companies that sell indoor grow equipment (Ma 2010), and companies that provide Internet based

information about the location, prices and quality of dispensaries. By 2009, one company from Colorado sold “point of sale” software to streamline the selling and tracking of medical cannabis at dispensaries. Five types of businesses in the emergent medical cannabis industry testify to the commercialization and professionalization of the former social movement: cannabis-testing laboratories; green certification companies; industry association organizations; investment businesses; and websites devoted to promoting and profiting from medical cannabis businesses.

Additionally the medical marijuana industry has produced an increasing number of media. These include quarterly newspapers, glossy monthly and bimonthly magazines, newsletters, websites, and even a television program that aired across California in 2010. The number of these publications has increased over the past ten years, and their operation is in a large part dependent on the advertisement revenue from dispensaries, doctor’s offices, cannabis product companies (primarily medicated edibles) and lawyer’s offices. Advertisements from dispensaries and doctors who specialize in providing medical cannabis recommendations filled the pages of free weekly papers in California’s major cities from roughly 2008 through 2011. At the micro level, the transition from social movement to industry has occurred linguistically and subjectively (details below). Patients and other constituents incorporate the meanings supplied by the movement-cum-industry and experience the shift from participants to consumers through the consumption of advertising and by attending events that stress cannabis as a commodity. Such

advertising peaked in 2010, and has declined sharply with the federal crackdown of late 2011.

Dispensaries and companies that provide edibles and other products to them participated in the transition from movement to industry by increasingly branding themselves and the products that they sell. Although different types of dispensaries exist there is a tendency for dispensaries to mimic one another in the practices they adopt. In the movement phase of medical marijuana, service provision (massage, acupuncture, counseling), and rigorous patient screening procedures (to establish patient legitimacy) became standard practice for dispensaries. In the latter phase, the use of advertising, lab testing, and name brand products (primarily edible products that featured cannabis) became industry standards. Advertising through flyers, on the pages of free weekly arts and entertainment papers, and in a growing number of magazines that catered to the industry from 2009 through 2012, played a prominent role in the transition. Long-term dispensaries that had weathered eight years of enforcement during the Bush administration, like the Berkeley Patients Group, used advertising for the first time in 2009, after eschewing advertising for its first ten years of operation. The famous dispensary, started to advertise on the back pages of local free weekly papers including the East Bay Express and the San Francisco Weekly in 2009. The dispensary even put up a large billboard near its location in 2011.

Arguably, the coronation of medical marijuana as industry was evidenced by the “Marijuana Conferences” held in 2010 and 2011 by the *Marijuana Business Report*, a publication and website produced by the company DealFlow media. While

conferences have long been a staple of the marijuana law reform movement, the DealFlow event stands in sharp contrast to earlier cannabis events. Earlier events fall into two main categories, conferences put on by social movement organizations such as NORML and DPA and the more recent arrival of trade show convention type events (including the The Cannabis and Hemp Convention held in San Francisco in the spring of 2011). Although a few events that attempt to blend these two forms have occurred (such as the Deep Green Festival held in Richmond, CA in the spring of 2011), most cannabis events fit either of these two models. The “Marijuana Conferences” however, replicate the more exclusive mixer events that typify the tech industry. Replete with professionally produced conference materials (featuring a booklet and a CD-ROM) for the sale price of \$395, the Marijuana Conferences seek to provide an exclusive focus on the business side of medical marijuana. According to the DealFlow media website:

The most concentrated group of investment professionals, business owners, attorneys, state legislators, and physicians attend The Marijuana Conference because it’s a forum geared for business-to-business networking and education.

One possible factor in the transition from movement to industry, concerns California’s unique “gold rush” medical marijuana economy and the influx of marijuana activists cum medical marijuana entrepreneurs. Many of the activists involved in the medical marijuana movement in California came to the state because of the rich opportunities for marijuana policy reform. Jeff Jones of the Oakland Cannabis Buyers Club, Richard Lee of Oaksterdam and former Berkeley Patients Group director Debby Goldsberry, moved to California from states with opportunity

structures that inhibited cannabis reform. Once these activists shifted into the economic field they were able to capitalize on an economic climate friendly to the above board sale of medical cannabis. Some activists have cycled through leadership positions in both movement and industry-focused organizations.

A small number of entrepreneurs venturing into the emergent medical cannabis industry have come from the professional staff of drug policy reform organizations (Geluardi 2010). Don Duncan was one of the key figures in the founding and early formation of the organization Americans for Safe Access. Duncan was a founder of the Berkeley Patients Group in 1999. After founding and directing ASA in 2002, Duncan went on to start two dispensaries in Los Angeles and to found CannBe, a consulting firm specializing in business development for the cannabis industry in 2009. The trajectory of Duncan's career parallels that of the medical marijuana to an uncanny degree. Initially, Duncan's efforts took the form of activism, but his later endeavors reflected the growing legitimization and accompanying "industrialization" of the cannabis industry. As Duncan began as an advocate and activist, he has emerged as an entrepreneur and consultant.

Dispensaries, Knowledge, and the Transformation of Cannabis

One important offshoot of the dispensary phenomenon in California is the development and spread of knowledge of the medicinal properties of cannabis. While opponents have assailed the medicinal value of whole plant cannabis research has demonstrated that cannabis has both curative and palliative effects (Grotenhermen and Russo 2002; Armentano 2010). Although subtle, the ability to provide cutting

edge and counter hegemonic knowledge of the therapeutic effects of cannabis is very consequential in empowering people with chronic diseases to seek the “forbidden medicine” for themselves (Grinspoon and Bakalar 1997). The spread of this knowledge also further legitimates the existence of medical cannabis dispensaries

The spread of knowledge about growing techniques and technologies, and the sale of clones and seeds at dispensaries has also helped to transform cannabis itself. No longer of unknown variety or origin, dispensaries have facilitated a level of consumer familiarity with cannabis that encourages knowledge acquisition. Through provision of high-grade cannabis strains and knowledge about the properties of various strains the medical cannabis movement cum industry has effectively transformed cannabis (Pollan 2001). The material composition of cannabis and its symbolic economy have been unstable for hundreds of years (Grinspoon 1994; Booth 2003). The myriad names given to cannabis in different times and places across the globe reflect the diversity of forms that cannabis takes. In addition to its symbolic economies, the material economies of cannabis have experienced a quantum leap with the proliferation of dispensaries in the United States. Currently hundreds of varieties of cannabis exist and the sharing of knowledge about the unique therapeutic effects of various forms of cannabis is expanding at dispensaries.

Multivolume coffee table books such as the *Cannabible* by Jason King and *The Big Book of Buds* by Ed Rosenthal, feature full color pictures and vivid descriptions of the hundreds of strains of “cannabis.” Each strain has a distinctive appearance (some plants tall and spindly, others short and bushy), color, scent, tastes

and effects. Most published accounts of cannabis allow that two main varieties of cannabis exist, indica, originally from the Himalayas, and sativa from tropical and subtropical regions across the globe. Most strains are hybrids of their indica and sativa grandparents.

In the late 1960s and 1970s, cannabis breeders in Northern California and the Netherlands crossed male and female plant varieties from around the world to create hybrid strains with distinctive properties (Subcool 2008). By selecting among parent plants for optimal qualities, breeders created newer strains of cannabis that were more potent and flavorful than their predecessors. In the four volumes of the *Big Book of Buds*, legendary cannabis grower Ed Rosenthal catalogs hundreds of different strains of cannabis, noting the effects, flavor, average flowering time, and sativa/indica content. For example the strain Strawberry Cough is said to be 80% sativa and 20% indica, while the shorter plant Romulan is predominantly indica. In the symbolic economy of cannabis dispensaries and among the wider group of connoisseur type consumers, “sativas” give a more cerebral “head high” while indicas give a “body high” that is more analgesic and sedative than sativas. It is precisely the different psychoactive qualities of different strains that allow them to be adapted to different medical and therapeutic needs (Rosenthal 2001). The explosion of genetic diversity in cannabis - the vast number of strains, their names and distinct characteristics - shows how much cannabis has changed in the last few decades. In addition to accelerating the material (genetic and physical) changes in cannabis, dispensaries and

the medical marijuana movement have accomplished an important ideological shift in the image of cannabis as therapeutic.

Proposition 19 and the Movement for Full Legalization

Part and parcel of the transition from movement to industry was a move by key activists turned entrepreneurs to sponsor a ballot initiative to legalize cannabis use for all adults over age 21 in 2010. In addition to being an important symbolic component of the industrial turn, the Proposition 19 campaign exposed key rifts between the movement wing and the industry wing of the medical cannabis movement, and exposed how the concerns of entrepreneurs did not always mesh with those of activists. Importantly, the initiative's backers did not frame their efforts as legalization, but as taxation and regulation. Eschewing the semantic baggage of the term "legalization," which had been roundly demonized by government actors during the Prop. 215 campaign in 1996; the official title of the initiative was the "Control and Tax Cannabis Act."

Medical cannabis mogul Richard Lee was the chief author and sponsor of the ballot initiative campaign to "legalize, tax, and regulate" cannabis for adult use. Lee had been a prominent activist and entrepreneur in the medical marijuana movement for a decade when he authored the controversial initiative. He typifies the transition from movement to industry. Lee opened a dispensary in Oakland in 1999, and he was one of three dispensary operators to secure a permit to dispense medical cannabis after the city of Oakland closed all but three dispensaries in 2004 (effectively becoming the first city in the state to regulate dispensaries). In 2007, Lee opened

Oaksterdam University, a trade school for the medical cannabis industry that taught budding entrepreneurs how to succeed, and cemented Oakland as the capitol of the medical marijuana movement. In an October 2010 editorial supporting the initiative in the magazine *West Coast Cannabis*, Lee framed the initiative in terms favorable to medical cannabis patients:

Prop 19 will protect medical marijuana patients by keeping cops from playing doctor and saying ‘you don’t look very sick to me.’...Prop. 19 will allow patients to access cannabis more easily in a safe and regulated environment by clearly allowing sales and commercial regulation. (Lee 2010).

Such medical marijuana friendly framing was necessary, because, ironically, many in the medical marijuana movement/industry were the biggest detractors of the initiative. Despite (or perhaps because of), the backing of all the major national drug policy reform organizations (NORML, DPA, MMP, SSDP, and LEAP), and the California NAACP, prominent medical marijuana proponents including Dennis Peron, came out against Proposition 19 (Tax and Control Cannabis) for a variety of reasons. Dragonfly de la Luz, a cannabis strain reviewer for the industry publication, *West Coast Cannabis*, became the face for the anti-Prop. 19 contingent of the medical cannabis movement, and the spokesperson for the ironically named organization, Stoners against Legalization. De la Luz and Peron primarily opposed the ballot initiative because they said it was a threat to medical cannabis patients and the medical cannabis industry. They argued that new prohibitions that did not exist would be put in place (primarily, the penalization of buying and smoking near those under 21). They also argued that the law would hurt patients, providers, and threaten the gains of the medical marijuana movement. Another fear that opponents expressed

was that the law would allow a few wealthy and powerful growers to monopolize and control the market, a thesis colloquially known as the Marlboro-ization of marijuana (No on Prop. 19 Website 2010). In an odd case of politics making strange bedfellows, self-proclaimed “stoners” found themselves in the same camp as the numerous organizations and agencies from the “drug control industrial complex” that traditionally oppose any and all efforts to reform drug policy (Reinarman 2011).

Like Prop. 215, 2010’s Prop. 19 was ambiguous about local regulations and allowed cities and counties in the statewide latitude in determining the specific content of local regulations. It legalized the personal cultivation of small amount of cannabis (25 square feet), and eliminated all penalties for possession by those over 21. In the lead up to the election of November 2010 several California cities made a preemptive move to license and tax facilities that would produce cannabis for a market unfettered by the requirement to only grow medical cannabis. The city council of Berkeley put a city level initiative on the ballot that would regulate where in the city cannabis could be grown and how it would be taxed if Prop 19 passed. The city council of Oakland was making even bolder plans than Berkeley. Council member Rebecca Kaplan made support for the medical marijuana industry part of her winning campaign platform in 2008. In 2010, Kaplan wanted the council to raise the cap on dispensaries in Oakland from four to eight. In the lead up to the 2010 Proposition 19 vote, Kaplan also worked to position Oakland as California’s marijuana producer of legal marijuana if the measure passed. She was working on legislation that would authorize four “mega-grows” in the cities industrial district that

would grow up to 100,000 square feet of cannabis and provide union jobs for the city (Geluardi 2010).

The super sized plan was alarming to pro-marijuana but anti-19 groups, drug warriors, and Oakland's city attorney alike. City Attorney John Russo expressed his concerns about the mega grow plan in a letter to U.S. Attorney Melinda Haag in December 2010. By exploring the plan even after Proposition 19 failed to pass, Oakland may have pushed the envelope too far and unwittingly precipitated the large-scale federal backlash that gathered steam in October of 2011. In a letter dated February 1, 2011, U.S. Attorney Melinda Haag, warned Oakland officials that sanctioning the growing of marijuana for either medical or non-medical purposed would be viewed as being complicit in a federal crime (International Business Times 2011).

A relative newcomer to the drug policy reform movement made some compelling arguments in support of Proposition 19 at the NORML conference held in Portland, Oregon in September 2010. Alice Huffman, the president of the California NAACP, attended the conference to voice her support for the measure and emphasized a new way to frame the fight against drug prohibition. In a speech, she stated that she supported the measure from a social justice position, because people of color (primarily young men) were bearing the brunt of drug policy enforcement. She emphasized that she had never smoked marijuana herself, and that supporting marijuana legalization was a tough sell in the Black community, stating "in the Black community, we really thought that the "War on Drugs" would protect us and help to

save our communities....we live in fear in our own communities.” She noted that the exhortation by prominent travel writer Rick Steves in his keynote address that morning to “come out of the closet” and publicly embrace the benefits of marijuana would not go over well at a meeting of the California NAACP. Huffman was making the legalization of marijuana a civil rights issue for the first time. Huffman remarked that she was surprised by how much of a buzz her endorsement had created and that success with Prop 19 would “give us the momentum to change this whole thing” (drug prohibition). She concluded her remarks by admitting she was afraid that the initiative lacked the financial support to pass.

Huffman’s fear proved correct, and Proposition 19 did not pass. The measure was able to garner an impressive 46% of the vote on November 2, 2010 (Ballotpedia 2010), exceeding the expectations of supporters and opponents alike. An electoral map of California that shows how each county voted on the measure (<http://www.sos.ca.gov/elections/sov/2010-general/maps/prop-19.htm>) shows that the areas that depend on the illicit cannabis market for their economic survival (Humboldt, Mendocino, and Trinity) all voted against the measure. Similar to Huffman, the initiative’s author Richard Lee made a prescient statement about its opponents in October 2010, “Only narcs and others who are profiting from cannabis prohibition oppose Prop. 19.”

Despite the failure of Prop 19, Lee and others in the cannabis law reform movement vowed to soldier on (Lee 2010). Cities and counties in Northern California also continued to regulate medical cannabis providers in 2011. In

Oakland, Berkeley, and San Francisco, (the first cities to regulate dispensaries), advocates and providers were able to actively participate in the industry's regulation through the creation of commissions and task forces in the city government. Activists including Richard Lee created a Measure Z commission in 2004 through ballot initiative that allows stakeholders in the industry to provide recommendations to city officials with regard to cannabis policies in the City. In Berkeley, Measure JJ, a voter initiative sponsored by a group of dispensaries including the Berkeley Patients Group, created the first iteration of the Berkeley Medical Cannabis Commission (BMCC), composed primarily of people affiliated with medical cannabis dispensaries. In 2010, the Berkeley City Council put Measure T on the ballot to reconfigure the Commission and allow for the City Council to appoint its members. The San Francisco Board of Supervisors followed suit in 2010, when it created a Medical Cannabis Task Force to advise them. The composition of the San Francisco Task Force included people from dispensaries, delivery services, patient advocacy organizations and larger advocacy groups. All three of these bodies gave stakeholders in the medical cannabis industry a seat at the table and a voice in local government, further demonstrating the commitment of Bay Area cities to pursuing workable regulations that balanced the needs of community members, cannabis patients and providers, and city officials.

The shift from movement to industry with medical marijuana occurred when activists and stakeholders shifted from operating in the field of social movement action to operating in the field of commercial action. This shift occurred as the sets of practices that activists used changed in line with these fields of action. The shift

has led medical cannabis providers to be more concerned with competition from other providers than with local and federal prosecution, and more commercially oriented actors to participate in the provision of medical marijuana (i.e. consulting firms, investors, entrepreneurs, and insurance providers). Medical cannabis patients are less likely to see themselves as participants in a social movement than as consumers in a market. These changes ultimately make the medical marijuana movement less capable of fending off federal interference and working cooperatively with local governments.

The transition has also created a rift between the wider drug policy reform movement and the medical marijuana branch of the movement, as many in the latter camp view the wider movement goal of full cannabis legalization as a threat to their livelihoods as medical cannabis providers. Many medical dispensary owners actively opposed Proposition 19 in 2010. It is impossible to say whether their opposition and lack of support defeated Proposition 19, but the initiative effort would certainly have benefited from backing from a united medical cannabis community. As activists and entrepreneurs (categories with considerable overlap) mistakenly interpreted the Ogden memo as an opening to increase the number of dispensaries in the state, they accelerated the shift from movement to industry. Authors and participants alike made the mistake of thinking that the commercial direction of the movement would prevent federal authorities from trying to dismantle the system of medical marijuana provision. Ironically, the commercial direction of the movement has contributed to an intense federal effort to close many of the best-known dispensaries in the state.

The Federal Crackdown of 2011 and 2012

By 2011, the cooperation between medical cannabis actors and local officials had drawn the ire of federal law enforcement agencies. Dispensaries thoroughly entered the field of commerce beginning in 2008 and 2009. Following Oakland's lead, cities and counties in Northern California encouraged innovative approaches to the emergent industry from 2008 onward. Beginning in the fall of 2011, the four U.S. Attorneys charged with enforcing federal law in the Department of Justice started a new effort to close dispensaries across California. The Crackdown began with an announcement by the four U.S. Attorneys for California at a press conference in Sacramento on October 7, 2011. The following week, the landlords of dispensaries throughout the state received letters notifying them that they could be subject to criminal penalties including prison sentences and asset forfeiture for leasing their property to dispensary operators. In Northern California, U.S. Attorney General Melinda Haag employed a rule that subjected business engaged in drug trafficking to federal penalties if they operated within one thousand feet of schools, playgrounds or parks. In San Diego, free weekly newspapers were also encouraged to discontinue the sale of advertising to medical cannabis dispensaries and doctors (Jones Personal Communication 2011).

In cities like Oakland, Berkeley, and San Francisco, and small towns like Fairfax (Marin County), despite excellent working relationships with local officials, law enforcement, and community members, federal law enforcement agencies increased their efforts to shut down dispensaries and investigate their operators. It is

difficult to deny that there has been a politically retributive dimension to the federal crackdown of 2011-12, as some of the most prominent activists and dispensary operators in Northern California have been subject to closure. Lynette Shaw worked on the Proposition 215 campaign and opened a dispensary in the liberal Marin County town of Fairfax prior to its passage in 1996. Shaw's was one of the first dispensaries to be forced to close, after her landlord was threatened with eviction in October 2011. The activist oriented dispensary and pioneer of the "service model" of dispensary operation, Berkeley Patients Group, opened since 1999, received a letter in February 2012 notifying it that it had to either move or close because it was less than a thousand feet away from a small private school. Richard Lee, the chief supporter of Prop 19 was forced to close a longtime dispensary in Oakland and Oakland University on April 2, 2012.

To illustrate how much the federal crackdown trumped the protective climate of favorable political opportunity structures, the mayor of Berkeley made the following statement in response to efforts to close Berkeley Patients Group:

We're really sorry to see them close up, because if we're going to have a dispensary, they're certainly the model. If you're going to have marijuana dispensaries, you need to make sure they run like the Berkeley Patients Group, and we'd love to see people who have a dispensary in the future pattern themselves after them. There were no instances of violence, they were excellent neighbors, they had good security, they contributed to the economy and helped local non profits by making contributions. The voters of this city voted unanimously that they wanted to have four dispensaries in Berkeley and that was it. We grandfathered them in. But evidently we get trumped by the federal government. (Bates as quoted in Brooks 2012).

Local officials in San Francisco, Berkeley, and Oakland have all denounced the federal crackdown and called for it to end. In San Diego, local officials have

capitalized on the federal crackdown to legitimate ongoing efforts to close dispensaries in San Diego. This shows that both local and national political opportunity structures exist. These layers of political opportunity overlap but are not the same; they can go in opposite directions and add a layer of complexity to the formulation of political opportunity structures that I laid out in chapters four and five.

The recent federal crackdown, has been far more successful at closing dispensaries throughout the state than efforts pursued under Clinton and W. Bush. Where the DEA under Bush favored high profile raids, the recent crackdown under Obama has used landlord letters, threats of asset forfeiture and provisions in the tax code to close dispensaries. Raids create lots of bluster, but also are subject to blowback in the form of high profile protests. Most of the techniques pursued by the DOJ and the DEA in the recent crackdown are silent with little public profile, but perhaps more effective. In San Francisco, the birthplace of the movement, five dispensaries have been closed by March 2012, and five more are currently subject to being closed. The first high profile raid during the crackdown occurred in Oakland on April 2, 2012, and it became the site of a protest and media attention (Artz, Thissen and Harris 2012).

Prior to the crackdown of late 2011, I believe some activists made the mistake of believing that the system of medical cannabis provision was firmly in place and no longer in danger of being stamped out by the federal authorities. Two recent journalistic treatments of medical marijuana proceed with the assumption that medical marijuana is a *fait accompli*. Geluardi (2010) and Hecht (In Press) write as if

the industrial turn, local taxation, and embrace of big business have insulated medical cannabis from federal law enforcement. Believing that the cloak of commercialism is a cloak of respectability, these authors make the mistake of viewing the commercialization of the medical marijuana movement as the final step in a march from illegal to semi-legal to fully legal. With the benefit of hindsight, it is apparent in March 2012, that entering the field of commerce with such ease and synergy was not the final step in the legitimization of cannabis but instead an affront to the drug control industry and their loosening grip on controlling the narrative that cannabis is a dangerous, harmful, and threatening illegal drug that should remain that way forever.

The Resurgence of Protest

Protests and rallies are a tactic in the medical marijuana movement's repertoire that faded into obscurity in the Bay Area and then resurfaced in response to the federal crackdown. While movement actors had become accustomed to conferences, festivals and expositions as the medical cannabis industry thoroughly entered the field of commerce, the early tactic of protest had disappeared. Movement activists used protest in San Diego in the context of draconian raids and city and county government meetings emerged as important sites for public conflict, but their resurgence demonstrates that the movement can re-enter the field of social movement activity when necessary. This most recent chapter in the history of medical marijuana suggests that the movement must remain engaged in the field of social movement activity for it to remain intact. A recent comment on the website Weed Blog, decries the de-politicizing effect of commercialism:

California Governor Jerry Brown and our elected state level officials are not joining the Governors Petition to Reschedule Cannabis which was started by the governors of Washington, Rhode Island, Vermont & Colorado. Why are these leaders ignoring us? Because we are letting them get away with it and probably even voting for them despite this. Just back from the LA High Times Cup: Zero political content. I guess the struggle is over and we won already. But we sure like selling pot, grinders, vaporizers & bongs.

Disengaging from the field of commerce, is necessary for the survival of the medical cannabis movement and the ability of the movement to influence broader efforts for cannabis regulation. The shift from movement to industry has encouraged patients to view themselves as consumers, not as participants in a social movement, and this trend must be rolled back.

In addition to using protest and political engagement, the movement must broaden its master frames to reach a broader constituency. Responding to the crackdown on an online pro-marijuana radio program, activist Debby Goldsberry used the “master frames” of democracy, to discuss the democratic nature of drug policy reform and to emphasize how the conduct of the federal government flies in the face of democratic values. By evoking the constitution and the oath that she was required to swear to sit on the City of Berkeley’s Medical Marijuana Task Force, Goldsberry linked the struggle against cannabis prohibition to widely held democratic values and beliefs. Many outside the movement subscribe to such beliefs, and activists can use them to broaden the appeal of the medical cannabis movement to include those who do not have a direct stake in the effort.

In addition to broadly targeted appeals that evoke the master frame of democracy, the marijuana reform effort has made significant gains by aligning itself

with the harm reduction branch of the drug policy reform movement. According to prominent harm reductionists, Morgan et al. (1993), “compared to heroin and cocaine, cannabis is seldom prominently discussed in the context of harm reduction. It is however invariably the first drug proposed for reform during any discussion of drug policy; and that discussion often, even unwittingly, involves harm reduction” (p. 211). Similarly, Hathaway and Erickson (2003) note, “[d]rug policy reformers and harm reductionists seem to be moving on parallel tracks in the same direction, towards the significant lessening or removal of the adverse consequences of the criminalization of cannabis to both the user and society” (p. 465).

Cannabis prohibition harms society by causing social harm and threatening social justice. As the majority of people subjected to criminal penalties for cannabis are African-American and Latino (despite lower rates of cannabis use), while the majority of users are white, cannabis prohibition is ultimately a threat to social justice. Recently some of the leading civil rights organizations, including the American Civil Liberties Union and the NAACP, have embraced this fact. The harms to social justice, through racially disproportionate arrests, must be emphasized and discussed in terms of harm reduction to further unite the three branches of drug policy reform, and appeal to a broader constituency for drug policy reform. Ultimately an appeal for social justice and civil rights has broader legitimacy than appeals to personal liberty, sound fiscal policy, or even medical necessity.

Another lesson is that drug policy reform is always a work in progress, and gains are always subject to push back. The numerous agencies, companies, and

organizations that comprise the “drug control industrial complex” are thoroughly invested and dependent on reproducing and maintaining drug prohibition (Reinarman 2011). Whatever gains the drug policy reform movement makes at the state and local level will be subject to opposition from federal law enforcement agencies. Activists, advocates, and proponents must continuously work to support and defend the gains they have made. Ultimately, the movement for drug policy reform will be more successful if it emphasizes its contribution to a socially just society.

CONCLUSION

My study proceeded from a simple set of research questions about the development of the phenomenon of medical marijuana and the role of the drug policy reform movement in its development. Although scholars from various disciplines have analyzed many aspects of drug policy, the field lacked an in-depth analysis of how novel drug policies develop within a wider system of punitive prohibition. In order to analyze the development of the system of medical marijuana provision, I drew extensively from the sociology of social movement studies, the sociology of drugs and drug policy, and the sociology of affect. The project also provides a social history of both the wider drug policy reform movement, and the medical marijuana branch of the movement. My study contributes to the following areas of sociology:

1. The role of affect and haunting in anchoring the ideology of drug prohibition
2. The role of movement organizations and context in the history of the drug policy reform movement
3. The importance of sites of activity for the drug policy reform movement
4. The importance of context and political opportunity structures in the genesis of the medical marijuana movement in California
5. The ways that activists shape political opportunity structures to mold the regulation of medical marijuana dispensaries in three different cities
6. How the medical marijuana movement has transformed into a hybrid between movement and industry

The first puzzle I sought to solve was the longevity and seductiveness of prohibitionist ideology. How had an ideology born of overt racism and xenophobia,

persisted and adapted to a society where such values were no longer widely held or espoused by public officials? I wanted to contextualize the efforts of the drug policy reform movement to cut against the grain of the dominant ideology and practices of “punitive prohibition.” By building on the sociology of drugs and drug policy, I used the concept of affect to explain the persistence of prohibitionist ideology and why it has such pull in twenty-first century American society. By extending an analysis that links the discourse of prohibition to the collective emotions in American society, these materials add to the sociology of drug policy and theorized how the idea of drug prohibition connects to the populace. This insight provides a crucial link that was missing from earlier analyses of drug prohibition, which omitted the social audience from explanations of drug prohibition. The actions of claims makers, moral entrepreneurs and drug policy actors have been extensively theorized and documented, but how these actions connected to the public were left under-theorized.

I used the Gordon’s concept of “haunting” to theorize the ways that our current drug policies are linked to their overtly racist legal antecedents. While discriminatory intent is hidden in coded language, U.S. drug policy continues to have a highly discriminatory impact on people of color. In addition to adding to the field of drug studies, an affective approach to the ideology of prohibition contextualize the challenge that the drug policy reform movement faces in supporting drug policies based on public health and compassion, as opposed to those based on stigmatization and retribution.

By applying insights from resource mobilization to a grounded theory approach to the history of the wider drug policy reform movement, I discovered that three branches of drug policy reform exist, and that initially the three branches were not connected. My research on the history of the harm reduction movement showed that neither social movement organizations, nor elite benefactors were the key drivers of movement activity. This observation was confirmed when I studied the development of the early medical marijuana movement in northern California. In both instances, social movement formation and activity was driven by grass roots activism by committed stakeholders. This finding refutes the basic premise of resource mobilization theory, which hold that social movement organizations and elite benefactors are the key determinants of movement success. Although organizations and elite benefactors played a role in the expansion of both medical marijuana and harm reduction, initially grass roots activism that flourished in hospitable political contexts was the key determinant of movement genesis and effectiveness. This finding supports the premise of political process theory but shows the importance of grass roots activism and civil disobedience to the successful implementation of new drug policies.

By highlighting the role of grass roots activism and civil disobedience, I move beyond the determinism that animates much political process theory, and call attention to the agency and subject position of activists as stakeholders; AIDS patients and activists drove the medical marijuana movement in northern California, and injection drug users drove (what would become) the harm reduction movement in

Amsterdam and Liverpool. On the other hand, it was the subject position of a largely white, male, and professional group of activists that allowed for the success of the early marijuana law reform movement in the state legislatures during the mid-1970s.

By using a grounded theory approach and ethnographic fieldwork, I discovered that a variety of events and the Internet served as important sites of activity in the drug policy reform movement. Hemp rallies, conferences, and the Internet serve as the venues where participants in the drug policy reform movement became active participants, networked with one another, and experienced inspirational emotions collectively. The Internet is also an important site for communication, social networking, lobbying, and novel approaches to protest. I conclude that these three sites are where the movement actually takes place.

In chapters four and five, I add medical marijuana dispensaries to the sites where the drug policy reform movement takes place, and analyze how participants are recruited and engage in action at dispensaries. Although hemp rallies and dispensaries are sites specific to the drug policy reform movement, the Internet and conferences are important sites of activity for many social movements. My analysis on sites of movement activity, and specifically the importance of the Internet demonstrates the importance of communication technology in changing how social movements integrate themselves and pursue desired outcomes. I hope to encourage other social movement scholars to consider the importance of sites of activity to movement activity.

My inductive fieldwork led me to theorize another understudied aspect of movement activity, the existence of “folkloric heroes.” These heroes occupy an important status in the drug policy reform movement, where they are virtually unknown to outsiders, yet legendary among participants. These figures offer a revealing glimpse into the ideology and mythology of the drug policy reform movement. By encouraging other scholars to look for “folkloric heroes” in other movements, this concept can help to build more textured understandings of the cultural dimensions of social movements.

My case study of the emergence and spread of the medical marijuana movement employed a dynamic version of political process theory to account for the role of activism and civil disobedience in shaping political opportunity structures. While earlier formulations of political opportunity structures were static, from interviewing participants it became apparent that political opportunity structures were quite dynamic and subject to the influence of both activists and organizations. I conceptualized the political opportunity structures that confronted the medical marijuana movement as layers of national, state, and local laws and personnel at various levels of government. Activists used tools including ballot initiatives, lobbying, civil disobedience, protests and referenda to alter the political opportunities they faced.

Activists confronted three different political opportunity structures in San Francisco, Los Angeles, and San Diego, and consequently they used different tools to influence the structures they found, which resulted in three different approaches to

regulating medical cannabis dispensaries. Cities in the San Francisco Bay Area adopted a “pro-regulatory” model, while Los Angeles adopted a “laissez faire” model, and San Diego a “prohibitionist” model. In each metro area, the number of dispensaries, types of dispensaries, taxation policies, and patient satisfaction with dispensaries varied tremendously. By theorizing the ways that activists influence political opportunity structures, my study can contribute to novel approaches to examining the nexus between social movements and public policy.

Another key finding of my study was that the phenomenon of medical marijuana provision had begun as a social movement, yet evolved into a hybrid of movement and industry. Although scholars have recently theorized how movements relate to industry emergence (Lounsbury et al. 2003), the transformation of a social movement into an industry is an entirely new phenomenon in the social movement literature. This finding required me to analyze how this transition took place and the role that key actors and organizations played. I use the concept of fields of action to discuss how the movement had shifted from the field of movement activity to the field of commercial activity. This transition broadened the types of actors involved in the provision of medical marijuana, and shifted the types of action that they engaged in. While medical marijuana activists originally used civil disobedience, protest, ballot initiatives, and lobbying to win public and official support, by 2009 medical cannabis providers were concerned with winning market share thorough advertising, “best practices,” and innovative promotions. A new site of activity had emerged as well; large-scale trade show expositions began to augment movement-oriented hemp

rallies. As activists entered the field of commerce, they became subject to increasing scrutiny and pushback from federal authorities. Although medical marijuana has spread from California to seventeen other states and the District of Columbia by 2012, its commercial turn raised the ire of federal authorities who see political capital to be won in working to close dispensaries in California, Montana, and Colorado. By theorizing this transition as a shifting of fields of action and analyzing the ways that actors accomplished the transition, and how the transition has altered the ability of the movement-cum-industry to fight for its survival. Ultimately, the transition had benefits and drawbacks, as it increased legitimacy and visibility but also brought federal attention and repression. These insights contribute to new ways of thinking about social movements and a new area of scholarship for the sociology of social movements.

Future Research

One debate in the sociology of social movements focuses on whether social movements succeed when democracy fails (or is closed), or whether movements succeed when democracy works (or is open) (Burstein 1999). With drug control policy and the drug policy reform movement, the effectiveness of a social movement in changing public policy highlights the limits of such thinking when scholars fail to account for the role of vested institutions (e.g. the “drug control industrial complex”) (Reinarman 2011) in fighting to maintain the status quo. Although the drug policy reform movement has had its biggest success with medical marijuana, the medical marijuana branch of the wider movement may have reached its apogee in 2011.

Despite widespread public support, ample funding, and active social movement organizations, the actions of the opponents of drug policy reform are an essential part of exploring the limits of drug policy reform at the local and state level. The staunch opposition of the drug control industrial complex to reform represents the key challenge faced by the drug policy reform movement, when compared to other contests over public policy. The persistent, yet fundamentally undemocratic nature of federal opposition to reform at the local level remains a puzzle for future research into drug policy.

This study also bears upon one final debate in the sociology of social movements, which centers on whether movements work at the level of altering legal and institutional arrangements, or whether they work at the level of cultural change. My study attempts to synthesize these two concerns. For the drug policy reform movement, the conflict with drug prohibition is both political and cultural. The movement seeks to change actual legal and political arrangements *and* how drug users are represented and valued. Marijuana is a powerful cultural symbol in our society. Marijuana law reform collapses the distinction between politically and culturally oriented social movements that new social movement scholars have sought to draw. Smoking marijuana is both a cultural practice and a political act. The act of smoking is both intensely personal, a violation of the criminal law, and a potent signifier with multiple meanings for different audiences. In many ways marijuana law reform has been an effort to normalize the use of a symbolically laden intoxicant. As discussed by Ferraiolo (2004; 2007) and Reinerman (2011) drug policy reformers

have only been successful in recasting marijuana as a medicine, while efforts to recast marijuana as an acceptable intoxicant or recreational drug have failed. Whether the drug policy reform movement will succeed in re-framing and undoing drug prohibition remains a critical area of study for future research into drug policy change.

List of Supplementary Files

Photographs from Santa Cruz WAMM Fest September 2008

Photographs from Seattle Hemp Fest August 2009

Audio Excerpts from San Francisco Protest October 2011

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